CRIME

ITS CAUSES AND REMEDY

GORDON RYLANDS

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BY

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"It would be an unsound fancy and self-contradictory to expect that things which have never yet been done can be done, except by means which have never yet been tried."—LORD BACON, *Novum Organum*, Aphorism VI.

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CRIME.

CHAPTER I.

INTRODUCTORY.

§ 1. In the course of an address on "Punishment and Reformation," delivered at the London meeting of the National Association for the Promotion of Social Science, in 1862, Sir Thomas Chambers, then Common Sergeant of London, gave utterance to the following thoughtful remarks:

"Reasoners and moralists may dispute, yet philanthropists need not delay to act, and the problems insoluble by argument may be settled conclusively by practice. It may be (I rather incline to that opinion) that the State has nothing to do with the individual except in his bearing on the welfare of society, that any interference with him on other than public grounds is objectionable, and that this doctrine is applicable both to those who obey and those who infringe the laws. Hence in dealing with offenders, we are to proceed entirely upon the assumption that our treatment of them is to be of a nature determined exclusively on public, and not at all on personal considera-

tions; that no result is to be aimed at which will terminate in themselves. The *final* object in our systems of penal discipline, as in all our other social arrangements, is the good of the community,—its deliverance from some evil or inconvenience, or its attainment of some substantive good. In the case of our criminals, the end sought in our mode of dealing with them, whatever it be, is the repression of crime—the diminishing the number both of offences and offenders. This is the matter in which the State has a direct interest, and which the State may strive at securing. What is the best means to be adopted for that purpose? then becomes the subject of inquiry. What apparatus, or agency, or machinery, is most likely to thin the ranks and lessen the activity of the criminal classes? That point is not to be determined by any consideration of what is good for them for their own sakes, but of what is good for the society of which they are the pests. To do them good is not the final aim, but to benefit the public. To secure for those who have broken the law and become subject to penalties some personal advantage is not, I think, a legitimate object of public law, though of private Christian benevolence it may be a plain obligation."

In these words the learned Sergeant has clearly and forcibly stated the fundamental proposition (it might almost be called an axiom) upon which any satisfactory discussion of the crime problem must be based. If criminals, in the execution of their nefarious designs, and in the gratification of their passions, injured themselves only, the State would

have no right to interfere; although, as Sir Thomas Chambers observes, individuals, whether Christian or other, would be quite justified in taking such action in the matter as seemed them good, and to be imposed upon them by their own private moral code, provided always that no other citizen's liberty was infringed by such action. This proposition ought to be self-evident, but it has not always been by any means universally admitted, and there are probably some who would dispute its truth even now. Mr. Jonathan Dymond puts the question,[1] "Why is a man who commits an offence punished for the act? Is it for his own advantage, or for that of others, or for both?" To which question he makes reply—"For both, and primarily for his own," but gives no very satisfactory reason for this conclusion. Since, then, the proposition that the State is justified in interfering with criminals only in so far as the welfare of the State requires it is not so obvious that the mere statement of it compels universal assent, it may be well to give briefly some of the grounds upon which its truth has been asserted.

Some writers on social economy have spoken of a civil contract or agreement between the individuals of a community, by which their relations to one another are defined. But no such contract is found in nature; at the time when men first combined themselves into communities they must have been far too rude and simple to understand what was meant by private and public rights or obligations; they must have felt instinctively that in

[1] "Essays on the Principles of Morality," 1886, p. 391.

combination they could better protect themselves against all kinds of enemies, could hunt with greater success than if isolated, and no doubt the feeling of companionship was pleasing. There was thus no formal agreement, and any man to whom the society in which he found himself was distasteful might withdraw himself from it; but if he attempted to molest his former associates they would naturally treat him as an enemy. Later, with increasing civilization and a more complex moral code, larger restrictions and obligations were laid upon each individual, tacitly imposed and tacitly accepted. But the modern society has imperceptibly developed out of the primitive one; no written agreement between its components exists, and each man must, as in the early days of the community, be held free to accept or reject the conditions of membership. The state of membership is, however, so advantageous that nearly every man complies willingly with the necessary conditions in order to obtain the accompanying benefits; but he might, if he chose, withdraw, and no one has any moral right to forbid his doing so; if, however, after having withdrawn himself from the Society, he proceeds to inflict any damage upon the Society in the aggregate, or upon any of its component individuals, he places himself in the position of one of those enemies for defence against which the associated community was originally formed; and the Government, as the agent of the Society, is bound to take the necessary steps to protect its members from damage. Criminals are such persons as are here

spoken of, and are thus to be dealt with by the State because they have become public enemies, menacing the security and prosperity of the State; but the State could not, on this view of the matter, take cognisance of any private action of the individual which ended completely in himself.

§ 2. We must then in our investigations bear this first principle in mind, and inquire what course will bring the greatest sum of advantage to the State. We must also endeavour to trace the many indirect effects by which our action may be followed, for a measure which may seem sure to at once produce a desired result, may be attended by so many indirect evil consequences as to more than counterbalance the advantages which accrue from it. This is a consideration which is unfortunately often overlooked, and the result of this carelessness or ignorance on the part of legislators is seen in the very large number of Acts of Parliament which are repealed after having been but a short time in operation, on account of their failing to produce the benefit which was expected of them. It is necessary in all things to count the cost, and an article or effect, which is in itself most desirable, may not be worth the price asked for it. The course which, other things being equal, will lead to the best results, may involve so much expense of time or money, and may cause indirectly so much inconvenience, as to induce us to follow some other course by which we shall attain a result, absolutely less advantageous, but relatively more so, because less costly. But in discussing methods for dealing with criminals, direct results

only have, as a rule, been compared, while the question of cost has hardly been glanced at, although no satisfactory reason can be found for departing in this particular case from the common-sense mode of procedure. The State wishes to erect a line of telegraph connecting places many miles apart, and it is a question what metal the telegraph wires shall be made of. The best conductor of electricity is silver; any person unacquainted with the technicalities of electrical engineering, and looking no further than this fact, might therefore suppose that silver would of course be employed, but if he ventured to express such an opinion he would be laughed at. Why? Because the cost of silver more than countervails its superiority in conducting power; copper is very nearly as good, and much cheaper; but even copper is rarely used for telegraphic purposes on account of its price. Low down in a list of metals arranged in the order of their conductivity we find iron, having an electrical resistance six times as great as that of silver and copper, and yet this is the metal which is almost universally used for this purpose; though far inferior to others, it will perform efficiently what is required of it, and at a price which more than compensates for its inferiority in other respects. The same rule applies in all cases, and the most desirable method of procedure is that in which the balance of advantageous over disadvantageous results is the greatest possible.

§ 3. In applying this principle to the question of the treatment of criminals, as well as to other

social questions, the words cost and price are not to be restricted to their more ordinary meaning of money value, or the pecuniary sacrifice necessary for attaining a given object of desire; but are to embrace all the deductions from general wellbeing which may indirectly follow from any given course of action, money being of course included as the means whereby wellbeing may be purchased, but in the case which we have to consider it will be found to be an almost negligeable quantity. For the sums which are dishonestly obtained from productive members of the community by the criminal classes in order to their own maintenance must be so vast, that the most expensive system of criminal procedure which we could devise would be scarcely likely to be a greater burden upon the State, and, if the system were an efficient one, we should on the whole be gainers thereby. The number of habitual criminals and suspected persons at large, known to the police, was, in the year 1884–5, 30,252, a large proportion of whom doubtless live at the expense of the State, preying continually upon it like a swarm of locusts. Clearly, however, of two systems equal in all other respects, but unequal in pecuniary cost, the most economical is to be preferred. But the factors which go to produce or to diminish crime are so complex that probably no two solutions of the problem which deals with these factors can be found differing only in respect of money expenditure, and many other considerations will have to be weighed.

§ 4. In the discussion of these numerous and subtle considerations great care must be exercised

that the judgment be not warped by mere sentiment. Certain steps which it may be proved necessary to take for the advantage of society may perhaps press harshly upon individuals, and the instinct of compassion possessed by every humane man may make it difficult for us to rigorously pursue what we know to be the right course; or again, we may be urged to perform some action of which the immediate effect will be the alleviation of individual distress, but which may entail indirect and remote consequences far more injurious and painful than the distress relieved. In all questions, therefore, which affect society it is our duty to endeavour to trace and to weigh every result, direct and indirect, however remote, which our action could have. A large number of people who call themselves philanthropists, and who have studied social science in a very superficial manner or not at all, are very apt to neglect this duty, and to allow themselves to be influenced in the main by the most excellent, when not ill-timed, feelings of generosity, compassion, mercy, and the like. They perceive only the immediate consequence of their actions, of many of which, could they but foresee the long and complex chain of effects, they would be appalled. How thankful must we be that the course of the Universe has not been directed by an almighty philanthropist of the unphilosophic sort! Suppose that instead of the fittest surviving and the weak going to the wall, the strong, the swift, the thrifty, the acute had been continually handicapped in order to keep in existence a

crowd of weak, of stupid, of vicious, of thriftless creatures, would, as now, the earth be peopled by animals most marvellously suited for existing and propagating their species under the particular conditions in which each finds itself? Would the human race have attained even to its present pitch of civilization? Nay, would the human race be in existence at all? It may well be doubted. And now that man, under the stern laws of inexorable Nature, has reached a comparatively high stage of development, a number of well-meaning, but short-sighted persons, are putting into practice theories which, if carried out on a sufficiently large scale, must check human progress, if it did not even convert the present slow forward movement into a retrograde one.

§ 5. But in striving to avoid sentiment we must be careful not to go to the other extreme, and act with harshness and brutality. Draconian legislation has ever failed of its effect; and especially must it do so in a free country, in which a wrong-doer is fairly and openly tried by his fellows. For any circumstance which drives public opinion into sympathy with the accused, and into hostility to the Government, will tend to defeat the ends of justice; and a savage criminal code will have such an effect. We have already experienced this state of things in England, when hanging was the penalty for the most trifling delinquencies, and when the consequent frequent refusal of juries to convict compelled an alteration to be made in the law. It must, in fact, be remembered that our only right to deal as we

please with another man's person or property arises from his having acted in such a way as to damage or menace the persons and property of orderly members of society; and our action is limited by this consideration to taking such precautions as may guard the community from those attacks, but must not be inspired by a desire for vengeance and retaliation. It is indeed highly presumptuous for man to take the law thus into his own hands, and to tell a fellow human-being that because he has committed such and such acts he must therefore undergo such and such penalties. We know that if any of Nature's laws are disregarded inevitable punishment follows, and that if any creature does anything that is really wrong, and absolutely immoral, somebody will certainly suffer for it; but not, according to our views, always the right person. The doubt may perhaps suggest itself to the mind of a thinking man whether our views on the subject are necessarily correct, and whether the State is likely to mend matters by interfering; but as a conclusion in the negative would certainly not recommend itself to the majority of people, who care nothing for the reasoning by which a result is established, but only inquire whether that result is in harmony with their preconceived ideas, it is useless to carry the speculation further; what we have to do therefore is, assuming the right of the State to deal with criminals, to determine how we may minimize the ill effects of crime, and, if possible, prevent it altogether. The lines on which we must proceed for the attainment of the first of these objects are

laid down by the consideration to which attention has just been directed, namely, that, whatever infringement of the moral law may have occurred, a definite and corresponding amount of suffering *must ensue* for somebody, and all that it is open to us to attempt is to cause this suffering to fall upon the proper person, that is, according to our ideas, the person by whom the moral law has been transgressed. But we shall probably find that no machinery which we can devise for this purpose will, in the language of mechanics, have an efficiency of so large a value as unity; in other words, when wrong has been done, by no contrivance shall we be able to prevent the community sustaining loss, therefore our principal object must be to get rid of crime altogether.

Before we can be in a position to say what means are best fitted for accomplishing this result, we must have a clear idea as to the causes of crime, which question therefore we will first proceed to investigate.

CHAPTER II.

AN INQUIRY INTO THE CAUSES OF CRIME.

"*Felix qui potuit rerum cognoscere causas.*"
VIRGIL, *Georgic II.*, 490.

§ 1. IT is commonly supposed that ignorance is an important cause of crime, and after trying numerous and costly experiments in criminal procedure, from the most brutal and barbarous to some which are comparatively humane, without obtaining any appreciable improvement, we are now enthusiastically convinced that education is the magic wand which is to convert criminals into honest men, and are spending millions a year with that desirable object. The School Board is the power that is to regenerate the world, and as the low-bred boy passes each successive "standard," he will cast yet another shell of pristine depravity, and emerge a pure and innocent being. The believers in the marvellous regenerative power of education are not actuated by mere faith, nor even solely by *à priori* reasoning; they appeal with great confidence to statistics.

At the meeting of the National Association for the Promotion of Social Science, at Bristol in 1869, "Mr. T. W. Saunders, Recorder of Bath, read a paper on 'The Influence of Education in Diminishing Crime.' He showed the necessity of education among the working classes, . . . and that crimes are more and more being confined to the ignorant. In the year 1856 86 per cent. of our criminals could neither read nor write, or could only do so imperfectly; whilst in 1868 this percentage had increased to 96. Looking at the educated portion of our criminals, the percentage who could read and write well was $5\frac{1}{2}$ per cent. in 1856, which percentage had, in 1868, dwindled down to 3. He thought it was a very gratifying fact that only three of every hundred criminals should be educated persons; and that it proved education to be a sort of insurance against criminality."[1] Excellent! Why, then, do we longer delay, and reason and ponder as though the question were one of infinite difficulty? We see from the passage just cited that it is simplicity itself, and all we need to do is to turn all our prisons into schools, arrest every illiterate man, teach him to read and write, and crime will fade away like a mirage in the desert. The proportion of illiterate and partially illiterate to educated criminals is the same now as it was in 1868, according to the statement of Mr. Saunders. The figures are thus given in "Judicial Statistics," 1885, part I., p. xxxvii.:

[1] Transactions, p. 269.

	1885-6.	1884-5.	1876-7.
Neither read nor write	28·9	30·0	33·2
Read, or read and write imperfectly	67·3	65·7	62·9
Read and write well	3·5	3·8	3·8
Not ascertained	0·3	0·5	0·1
	100·0	100·0	100·0

It will be noticed that these figures remain very constant, and therefore are probably not merely accidental, but depend upon some law; the question is, is that law such as Mr. Saunders and many others have stated?

It has often been said that statistics can be made to prove anything; this is not true; but it is true that statistics, carefully manipulated by a clever man, or clumsily and loosely put together by a thoughtless one, may *appear* to the superficial inquirer to prove what they don't really prove at all. A striking example of this is given by Mr. Herbert Spencer, in his "Study of Sociology." He says,[1] "A few years ago Dr. Stark published the results of comparisons he had made between the rates of mortality among the married and among the celibate; showing, as it seemed, the greater healthfulness of married life. Some criticisms made on his argument did not seriously shake it; and he has been since referred to as having conclusively proved the alleged relation. More recently I have seen quoted from the *Medical Press and Circular* the following summary of results supposed to tell the same tale

"M. Bertillon has made a communication on

[1] "Study of Sociology," 1884, p. 93.

this subject to the Brussels Academy of Medicine, which has been published in the *Revue Scientifique*. From 25 to 30 years of age the mortality per 1,000 in France amounts to 6·2 in married men, 10·2 in bachelors, and 21·8 in widows. In Belgium from 7 per 1,000 among married men, the number rises to 8·5 in bachelors, and 24·6 in widows. . . The result of all the calculations is that from 25 to 30 years of age the mortality per 1,000 is 4 in married men, 10·4 in bachelors, and 22 in widows." Mr. Herbert Spencer then points out that this remarkable result can be readily explained with reference to the selective influence of marriage. It is clear that the strongest and most healthy men are the most likely to get married, and that consequently we should naturally expect the mortality among them to be lower than that of bachelors among whom remain all whose ill-health debars them from matrimony. We may learn from this instance that in dealing with statistics it is necessary to look beneath the surface and endeavour to discover the true relationship existing between the figures stated. It is found by observation that it more often rains when the barometer is low than when it is high, but only ignorant people conclude therefrom that the state of the weather is an actual effect of the fluctuations of the mercury column; we know that both are effects of the same cause, and this must warn us, when investigating phenomena with which we are less familiar, not to confound the *post hoc.* with the *propter hoc.*

Let us then apply this principle to the present

inquiry, viz., what is the relation of ignorance to crime? and let us consider whether there is any reason to suppose that crime and ignorance are connected in some other relation than that of cause and effect. A very slight consideration will show us that there is such a connection. For it is clear that those boys, who when they should be at school are playing truant for the purpose of robbing orchards and taking birds' nests, and who idle away their boyhood in the company of rough and vicious companions, playing pitch and toss and becoming familiar with vice, will grow up ignorant and degraded; and from such it is that the criminal classes are recruited.

The same inherited tendencies which lead a man into criminal courses make study and continuous applications of all kinds irksome to him, and ensure his remaining in ignorance. If therefore we knew nothing further we should reason from this that the criminal classes must contain a far larger proportion of uneducated men than the rest of the nation, and we need not be at all surprised to find that such is in fact the case. Could we devise a workable scheme for so changing the habits and proclivities of these unfortunate beings we should find that with the refinement of their taste would come a state of mind fitted to receive education and to profit by it. No one can be a firmer believer in the advantages of education than I am, but I am sure that its efficacy as a reforming agent has been much exaggerated by certain enthusiasts; before the refining and elevating influence of education can be brought to bear the soil

must be prepared to receive it, and the attempt to reform a degraded and brutal man by education of the intellect alone would be as absurd as to endeavour to make a steam engine out of iron not yet smelted and purified from the ore.

§ 2. What then are the causes of crime? At the Birmingham meeting of the National Association for the promotion of Social Science, held in 1868, the Rev. H. Letsom Elliot, M.A., gave the following table which he had compiled from the results of personal observation, and which helps us to answer the question just stated.

First Convictions supposed to be traceable to	Number examined, who on the occasion of the last offence had been				Total.
	Indicted.		Summarily Convicted.		
	M.	F.	M.	F.	
1. Bad company					
a. Acquaintances made in the street, workshop, or home, &c.	126	32	74	18	250
b. Acquaintances made in the public house, dancing saloon, &c.	69	0	25	7	101
2. Drink	43	13	126	23	205
3. Poverty	11	6	25	10	52
4. Opportunity	33	7	35	2	77
5. Want of Principle...	44	11	5	7	67
6. Bad Temper...	7	4	51	34	96
7. Immorality or Wantonness	4	12	12	11	39
8. Incapacity and Imbecillity ..	3	2	6	0	11
9. Other causes...	13	1	73	15	102
Total	353	88	432	127	1000

On glancing over this table we are at once

struck by the number of those whose fall was owing to bad company and to drink. On the first of these two heads Mr. Elliot spoke thus: "Bad company is the master-cause of crime; especially of that which is most serious in a social point of view. The great majority of professional thieves have been engaged in a criminal career almost from infancy, and have originally fallen, not from the promptings of hunger, not from any special dishonesty, not from any peculiar moral obliquity, but simply from the influence of bad example; or, it may be, from direct instruction in crime, at an age when they were scarcely capable of discerning between their right hand and their left. Of the 1,000 prisoners examined by me, 395 had been convicted before they were out of their 'teens.' They were led into crime from precisely the same motives that have kept those who now hear me from such a career. The examples of those older than themselves, the influence of associates, the love of standing well in the estimation of others—these are the causes which, whether for good or evil, determine the career of every man."

This is a result which cannot surprise any one who knows anything of the life of the children of the poor in the large towns. Uncared for by their parents, and even encouraged to prowl about the streets for the purpose of begging, or getting in any way whatever something to assist in "keeping the pot boiling," they are thrown, at an age when their character is not yet formed and their nature plastic, into constant companionship with other unfortunates who, but a year or two before, were

as themselves, but who, having become corrupted, now proceed to corrupt others in their turn. There is thus, as it were, a pestilence in the social community, a most infectious disease of a terrible character, and while medical science has discovered vaccination and the treatment of M. Pasteur for prevention of dreadful diseases of the body, moral therapeutics still looks helplessly on while new centres of infection are being continually formed to keep active in perpetuity the still more noxious diseases of the mind. Certainly, when a man has been smitten by this dreadful pestilence, some feeble attempt is made at a cure, though, as I shall show, with no remarkable amount of success; but the centres of infection are left undisturbed to propagate corruption in widening circles. At present we only put into action the machinery of the law when the mischief has been done, but make no attempt to eradicate the origin of the evil. So far is this from being the case that even in our prisons, which should be hospitals for the relief of the morally unsound, we mix together haphazard those who are but slightly affected with cases of the most dangerous character; the disease spreads in the very hospital itself, and a man may go forth worse than when he entered. One who had good opportunities for observing thus expresses his opinion on this point. "The two classes should be kept as much as possible distinct, and men undergoing punishment for first offences should on no account be mixed up with hardened and confirmed rogues. I speak from experience. Not only have I become ac-

quainted with more of what is bad and evil, together with the schemes and dodges of professional thieves and swindlers, during the four years I 'served the Queen for nothing' than I should have done in fifty years outside prison walls; but had I been a man of naturally dishonest tendencies, I might have fallen into temptation, swallowed the bait, and have formed alliances for a future life of villainy and crime."[1] Our object in the present chapter being merely to endeavour to trace out the causes of crime, we must leave for the present the consideration of the means of coping with this great evil, and now pass on to the second of the chief causes brought under our notice by Mr. Elliot's list.

§ 3. The first question which occurs to us on this head is whether drink is a real cause of crime, or, like ignorance, a concomitant result. The question is not difficult to answer. No doubt a man of depraved character, who associates with other vicious men, spending his time with them in idleness when not engaged in some criminal enterprise, is likely enough to become a constant drinker, and thus to a certain extent drinking and criminal habits may be results of the same cause: but this by no means covers the whole ground; and it is sufficiently well-known that men and women frequently become habitual drunkards, in whom there has been no observed tendency to any other vice; that such people have, under the influence of drink, committed assaults and other social offences, and have thus

[1] "Five Years' Penal Servitude," p. 168.

brought themselves into the power of the law. The ensuing disgrace, coupled with the natural demoralization which drink causes, drags these miserable people down the first steps of a lawless and vicious career, with, in many cases, increasing acceleration, until actual crime is reached. Mr. Elliot, in referring to the table already quoted, states that he had satisfied himself that the first crime was really a direct consequence of the cause to which he had ascribed it. It will be observed that while he has ascribed no first crime to simple want of education, he has ascribed 20·5 per cent. to the influence of drink; and indeed this conclusion is almost daily corroborated by reports in the newspapers of proceedings before magistrates and in the Law Courts, which render superfluous the citation of many instances here.

The following facts may, however, be stated. The Rev. J. W. Horsley gives the following inscriptions from the walls of cells in Clerkenwell Gaol: "I advise you to keep away from bar; be a teetotaler;" "Good-bye all. Give up drink;" "Take my advice and keep from drink, for it has been the ruin of me; it will be a warning to me for life;" "I, Eliz. F., take an oath I never touch drink again with the help of God;" "A prisoner's advice: sign the pledge;" "½ pint whiskey brought me here—took the pledge for 2 years —renewable for ever."[1] In another place the same authority says: "Thursdays and Fridays are our lightest days, because money runs short towards the end of the week; therefore there is

[1] "Jottings from Jail," p. 27.

less drinking; therefore there is less crime."[1] Again: "Crime is estival, because there is more intemperance in the summer than in the winter." He considers that 75 per cent. of the total amount of crime is traceable to drink; an estimate which also coincides with that arrived at by Mr. Francis Peek, who, in an appendix to "Social Wreckage," produces overwhelming evidence to show to how great extent crime is caused by drink; and the connection between them will become evident more than once in the course of our further investigations into the origin of crimes.

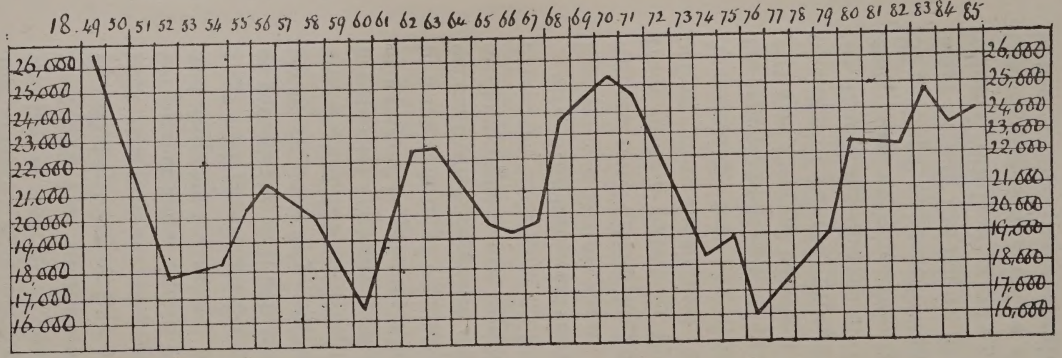
We may therefore take it as an uncontroverted fact that drink is a *vera causa* of crime.

§ 4. A good many people will probably be surprised at the small number of first crimes ascribed to poverty in the table previously quoted, these being put down at 5 per cent. only; because it has been commonly supposed that the pressure of hunger has driven many men to illegal methods of gaining a subsistence, and years in which trade is bad would by most people be expected, not unnaturally, to be more marked by crime than other years. This idea can be easily put to the test. The following diagram, taken from the Eighth Report of the Commissioners of Prisons,[2] compares the number of paupers and the number of prisoners in England and Wales from the year 1849 to the year 1885.

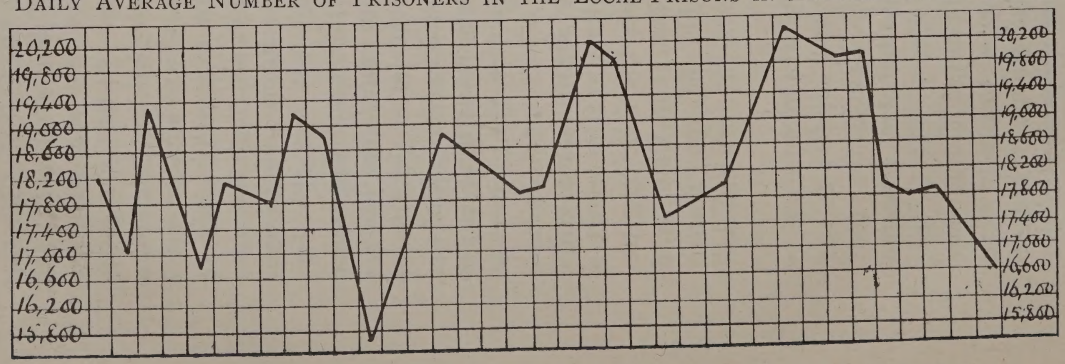
It will be seen that in 1849 the number of persons in receipt of relief was high, from which we may conclude that times were bad for the work-

[1] "Jottings from Jail," p. 81. [2] Appendix 6.

ADULT ABLE-BODIED PAUPERS IN RECEIPT OF RELIEF INDOOR :—



DAILY AVERAGE NUMBER OF PRISONERS IN THE LOCAL PRISONS IN ENGLAND AND WALES:—



ing classes; and indeed we know that 1849 was the last of a series of years of depressed trade; and that a revival commenced in this year and continued for four or five years. At first we notice that the number of prisoners fell, but only for a very short time, and in 1850, when trade was brisk and improving, crime began to increase, and in 1851 had reached a high point, although the state of prosperity still continued. From 1859 to 1869 there is certainly agreement between the two curves, but from 1872 to 1877 we find increasing prosperity accompanied by an increasing number of persons in prison; about the latter year there is a maximum of one curve, and a minimum of the other, from this point onwards, while the number of paupers becomes rapidly greater, the number of prisoners undergoes as rapid a decrease.

Mr. Matthew Davenport Hill, many years Recorder of Birmingham, to illustrate the question we are now discussing, quotes the following extract from a paper by the Rev. John Clay, read before the Statistical Section of the British Association for the Advancement of Science, Liverpool, Sept. 23, 1854:

"The interval between July 1824 and July 1825 was one of general prosperity and comfort among the labouring classes of North Lancashire; that from July 1825 to July 1826, included a period of perhaps unprecedented distress. Yet in this latter period, the felony list presented no augmentation. While 40,000 to 50,000 of the poor were existing upon charitable contributions, it cannot be ascertained that a single theft (recorded in the

calendar) was caused solely by hunger. The few persons who pleaded distress as an excuse for their offences were, in every case, old offenders. During the prevalence of this distress, I had many opportunities of witnessing what I have often seen since—the fortitude and patience exercised by the working classes in times of suffering, and the admirable self-denial with which many, who were themselves in poverty, assisted the utterly destitute. From a table given in my Report for 1830, it appeared that, during the four ordinary years ending with June, 1824, the annual average of committals to the sessions was 119; the prosperous year, 1825, produced 177 committals; the following year of distress, 172; and the year of reviving prosperity (ending July, 1827), no less than 269." [1]

In the same paper the following table is given:

CRIME IN NORTH LANCASHIRE.

Year ending 1st July.	Committed to Sessions.	Summary Convictions.	Total.		
1835	168	642	810		
1836	178	715	893		
1837	277	627	904	... ...	(a)
1838	302	762	1064	... ...	(b)
1839	361	655	1016	... Bad year	(c)
1840	394	937	1331	... ...	(d)
1841	485	901	1386	... Bad year	(e)
1842	611	1053	1664	... Very bad year	(f)
1843	497	1215	1712	... ditto	(g)
1844	433	894	1327	... Good year	(h)
1845	301	700	1001	... Good year	(k)
1846	289	666	955	... ...	(l)
1847	366	646	1012	... Bad year	(m)

[1] "Repression of Crime," 1857, p. 46.

1848	343	843	1186	Bad year (n)
1849	339	1279	1618	Good year (p)
1850	325	1323	1648	Very good years (q)
1851	387	1456	1843	
1852	417	1226	1643	
1853	442	1012	1454	
1854	470	957	1427	... ... (r)

(a) Spinner's strike, October to February.
(b) Suffering among the hand-loom weavers.
(c) Provisions dear, scarcity of employ.
(d) Increase of committals mainly attributable to the establishment of the county police. No want of employment, and times favourable.
(e) Trade in a depressed state.
(f) Great and prolonged suffering.
(g) The depression at its lowest point.
(h) Full employ.
(k) Abundance of work.
(l) Hundreds of hand-loom weavers out of employ.
(m) Great scarcity of food and of employ.
(n) The distress at its maximum.
(p) Times greatly improved.
(q) A period of great and continued prosperity.
(r) The Preston strike.

The evidence given us by this table is, like that given by the former one, somewhat contradictory, for we gather from it that during the period of depression, 1840–1843, crimes were much more numerous than in the good years which followed and those which preceded the depression; but on the other hand the very good years, 1850–1853, appear to have been more fertile in crime than any that had preceded them.

A broad classification of the crimes committed in certain critical years will perhaps enable us to

trace the connection more clearly; because when crime of all kinds is given in one total for each year, an abnormal increase of a particular class of offence may overbalance a decrease in every other class, and by noticing which particular offences are more or less numerous in more or less prosperous years we may perhaps be put in a position to determine whether poverty is really a cause of crime or not. We will take the three years 1872, 1877, and 1884, as being fairly representative ones; 1877 being at a minimum and 1872 and 1884 not far from maxima of the pauper curve in our diagram. From "Judicial Statistics" we take out approximately the number of offences against person and against property, also the number of those who were brought before the magistrates charged with wilful damage and with being drunk and disorderly.

	1872.	1877.	1884.
Property	80,000 ...	88,000 ...	81,000
Person	98,000 ...	94,000 ...	85,500
Wilful damage.....	21,000 ...	23,500 ...	23,000
Drunk and disorderly	183,000 ...	194,500 ...	183,000
Total	382,000	400,000	372,500

The year 1877 which, according to our diagram, was a period of prosperity for the working classes, is marked by a great excess of crime, and we are not surprised to find that this is chiefly accounted for by the increase in the number of drunkenness cases. But if, as some people suppose, crimes were more numerous in bad than in good years

owing to the pangs of hunger driving men to steal, we should expect to find that the offences against property were greatest in 1884 and least in 1877, but such is far from being the case, the latter year being pre-eminent in this respect. Cases of wilful damage were also the most numerous in this year, and offences against person high. Both which results we may pretty safely conclude to have been direct consequences of the great increase of drunkenness; and even the unexpected pre-eminence of this year in offences against property may be due to the fact that men who had lost their situations through excessive indulgence in drink took to stealing for a livelihood, and generally to the demoralization and idle habits induced by this pernicious indulgence.

The conclusion therefore to which our data seem to lead us is this: that in average years, the condition of the people exerts a mean or normal effect upon the statistics of crime, the principal variations in which are at such times due to other causes; but in abnormally prosperous years a great increase of drunkenness is followed by an increase of every kind of offence; and on the other hand, in years of abnormal depression, a large number of persons being thrown out of work and being in idleness, are more open to temptations brought to bear upon them by chance companions, who have already fallen into vicious habits; and a few probably, being unable to resist the continual pressure of want, are at length driven to satisfy their hunger with what is not their own. If this is the true solution, we may expect to find

that in years of extreme depression and of unusual prosperity crime will be at a maximum, and must be ascribed in the first case chiefly to the temptations and opportunities brought by *idleness*, and in the latter case to *drunkenness*. It must, however, be borne in mind that the causes of crime are many and complicated, and that the action of one may at any time be marked by the combined operation of all or a number of the others; but, broadly speaking, the facts we have examined seem to support the proposition just laid down; and afford no ground for supposing that poverty pure and simple is a corrupter of morals to any great extent; drunkenness is again seen to be a most potent factor.

§ 5. We now come to the consideration of two influences which determine above all others the amount of crime, and to one or the other of which indeed all others may be ultimately reduced, although, strange to say, they have hitherto received but scant attention at the hands of writers upon Moral Therapeutics; perhaps because this branch of Moral Philosophy, being more practical than speculative, and dealing with data and phenomena of a low and vulgar character, has been rather despised by lofty-soaring philosophers, who would certainly have recognized the potency of the influences in question; and has fallen into the hands of men who believe that a practical problem can be solved only by empiric formulæ, and who in fact have not the special knowledge which would enable them to attack such problems in any other way. The influences to which I refer are Heredity and Environment. It will not be

necessary to bring forward much evidence to establish this truth.

The influence exerted by Heredity, at any rate, is sufficiently obvious in every-day life to attract the attention of observant men; and to such an extent is it tacitly assumed, that we may often hear people discussing the question in what respects a child takes after its father and in what after its mother, and expressing great astonishment if, in any important point, whether physical or mental, the offspring appears to differ markedly from both its parents.

In a paper read before the Medical Society of University College, London, Mr. J. Walter Carr, M.D., F.R.C.S., observed that: "If the child did not inherit the result of all that had gone before, with additional power of development on his own part, all social growth would be rendered impossible—without it there would be an end to all training and development. The child of highly civilized parents is at first in the same actual state, as regards the higher faculties, as that of untutored savages, but the potentialities of the two are widely different, and the physical capabilities of the former are simply the accumulation of the mental and moral powers handed down from generations of educated ancestors."

Professor Ribot has accumulated a mass of evidence upon this interesting question, from which the following striking facts are taken:[1]

A man belonging to the educated class, and charged with important functions, succeeded for

[1] "Heredity" Trans. H. S. King and Co. 2nd Ed.

a long time in concealing his alcoholic habits from the eyes of the public; his family were the only sufferers by it. He had five children, only one of whom lived to maturity. Instincts of cruelty were manifested in this child, and from an early age its sole delight was to torture animals in every conceivable way. He was sent to school, but could not learn. In the proportions of the head he presented the characters of microcephalism, and in the field of intellectual acquisition he could only reach a certain low stage, beyond which further progress was impossible. At the age of nineteen he had to be sent to an asylum for the insane.

Charles ——, son of an eccentric and intemperate father, manifested instincts of great cruelty from infancy. He was sent at an early age to various schools, but was expelled from them all. Being forced to enlist in the army, he sold his uniform for drink, and only escaped a sentence of death on the testimony of physicians, who declared that he was the victim of an irresistible appetite. He was placed under restraint, and died of general paralysis. Quite recently, Dr. Morel had again an opportunity of proving the hereditary effects of alcoholism, in the "children of the Commune." He inquired into the mental state of one hundred and fifty children, ranging from ten to seventeen years of age, most of whom had been taken with arms in their hands behind the barricades. "This examination," he says, "has confirmed me in my previous convictions as to the baneful effects produced by alcohol, not only in the individuals

who use this detestable drink to excess, but also in their descendants. On their depraved physiognomy is impressed the threefold stamp of physical, intellectual, and moral degeneracy." [1]

The heredity of the tendency to *thieving* is so generally admitted that it would be superfluous to bring together here facts which abound in every record of judicial proceedings. One, but that decisive, may be cited from Dr. Despine's 'Psychologie Naturelle,' the genealogy of the Chrétien family. Jean Chrétien, the common ancestor, had three sons—Pierre, Thomas, and Jean-Baptiste. 1. Pierre had a son, Jean-François, who was condemned for life to hard labour for robbery and murder. 2. Thomas had two sons: (1) François, condemned to hard labour (*travaux forcés*) for murder, and (2) Martin, condemned to death for murder. Martin's son died in Cayenne, whither he had been transported for robbery. 3. Jean-Baptiste had a son, Jean-François, whose wife was Marie Tamé (belonging to a family of incendiaries). This Jean-François had seven children: (1) Jean-François, found guilty of several robberies, died in prison; (2) Benoist, fell off a roof which he had scaled, and was killed; (3) X——, nicknamed Clain, found guilty of several robberies, died at the age of twenty-five; (4) Marie Reine, died in prison, whither she had been sent for theft; (5) Marie-Rose, same fate, same deeds; (6) Victor, now in jail for theft; (7) Victorine, married one Lemaire; their son was condemned to death for murder and robbery.[2]

[1] "Heredity," pp. 86, 87. [2] Ibid., p. 90.

With suicidal may be ranked *homicidal monomania*, which is also hereditary. We need here give only one instance of this form of morbid heredity, but it is one that by itself is more convincing than a host of others. We take it from the 'Annales de Hencke,' 1821.

"A woman named Olhaven fell ill of a serious disorder, which obliged her to wean her daughter, six weeks old. This complaint of the mother began by an irresistible desire to kill her child. This purpose was discovered in season to prevent it. She was next seized with a violent fever, which utterly blotted the fact from her memory, and she afterwards proved a most devoted mother to her daughter.

"This daughter, become a mother in her turn, took two children to nurse. For some days she had suffered from fatigue and from 'movements in the stomach,' when one evening as she was in her room with the infants, one of them on her lap, she was suddenly seized by a strong desire to cut its throat. Alarmed by this horrible temptation, she ran from the spot with the knife in her hand, and sought in singing, dancing, and sleep a refuge from the thoughts that haunted her. Hardly had she fallen asleep, when she started up, her mind filled with the same idea, which now was irresistible. She was, however, controlled, and in a measure calmed. The homicidal delirium recurred, and finally gave way, only after many remedies had been employed." [1]

The following story, which appeared in the daily

[1] Ibid., p. 126.

papers, is a remarkable instance of the same fact:

"An inquest was held yesterday on Robert Evan Lloyd, aged forty-five, clerk and cashier at Lucas, Blackwell, and Arkwright's Brewery, Leamington, who threw himself from the Iron Pier, Douglas, and was drowned on Friday night last. The body was identified by friends from Leamington, one of whom produced the following letter, received from Lloyd on Saturday at noon: 'Douglas, Isle of Man. Dear ——, when this reaches you I shall have done what I have so often threatened. It has come to a matter of Hatton Asylum or death, and I prefer the latter. I beg you and all my friends to remember me as I was about ten years ago, until that wretch Wyllie interfered with me. God help the wife and children. Perhaps Mr. Lewis might do something for them. A small bag will be found at the address on enclosed ticket, containing my watch, &c.—Your broken-hearted Bob.' It was stated that deceased had made three previous attempts on his life. His father destroyed himself by jumping off Chelsea Church spire, and his sister died three months ago in a lunatic asylum. His employers had lent him £100 at Christmas which he had never been asked to repay; and his friends say that his remarks in the letter about Wyllie are totally groundless. A verdict of 'Suicide while in a state of temporary insanity' was returned."[1]

It is pretty safe to conclude that a morbid affection of the brain was hereditary in this

[1] *Manchester Guardian*, July 5, 1887.

family, predisposing the persons affected to commit suicide. The cases here cited of such inherited morbid tendencies will probably be sufficient to support a fact which is denied by few who have considered it; should any remain unconvinced they are referred to Prof. Ribot's able and exhaustive work upon the subject.

The conclusion, then, to which we are brought is that many unfortunate persons have bequeathed to them by their parents morbid affections of the brain which compel some to homicide, some to suicide, some to drunkenness and its consequent vicious and degraded mode of life, reducing others to idiocy or raving madness. In this sad class of cases it is obvious enough to any one that the criminal should be no less an object of our deep commiseration than the man who has been seized by a loathsome and painful disease. The words punishment and vengeance are tragically ludicrous in such a connection.

§ 6. We now turn to the general head of Environment, which it has been convenient to treat already under some of its more important special forms, such as poverty and bad company. As a matter of fact, all the influences which result in the formation of criminal habits may be divided into subjective and objective, and ranged respectively under one or other of the main heads Heredity and Environment. Concerning the latter in its more general aspect we will now say a few words.

A fact of great significance is the youth at which, in the majority of cases, a criminal career

is commenced; the table given in Judicial Statistics of prisoners' ages on commitment is misleading on this point; the number of those committed between 20 and 30 is there given as greater than that of those committed in any other ten years' period of age. This is no doubt perfectly accurate, but it must be remembered that a large number of persons are recommitted more than once, and many several times, some even many times, between the ages of 20 and 30, and I think a table giving the number of *first* convictions between the same ages would be extremely interesting, and most useful for a student of the subject upon which we are now engaged. I have fortunately been able to find statistics upon this point, but no numerical facts collected by a private person relating to a public matter of this kind can be so full and accurate as those published by the Government concerning the phenomena with which it has to deal. I am again indebted to the thoughtfulness and care of the Rev. H. L. Elliot, who in the paper previously quoted, gave the subjoined interesting table. It will be seen that the largest number of first convictions occurs between the ages of 9 and 20, and that the ages of 15, 16, 17, 18, and 19 seem to be those at which boys and girls are most exposed to temptation and most easily led astray by it.

It is, moreover, important to remember that first "conviction" is not at all necessarily synonymous with first "offence," so that many, for instance, of the 339 whose first conviction falls between the ages of 20 and 30 must have really commenced a career of vice at an earlier age.

TABLE SHOWING THE AGES OF 1,000 PRISONERS AT THE TIME OF THEIR FIRST CONVICTION.

Age.	Number examined.	Age.	Number examined.	Age.	Number examined.
10 and under	19	20	44	Between	
11	4	21	45	9 & 20	395
12	15	22	41	20 „ 30	339
13	20	23	28	30 „ 40	151
14	27	24	33	40 „ 50	65
15	51	25	40	50 „ 60	37
16	72	26	30	60 „ 70	12
17	57	27	22	Above 70	1
18	75	28	32		
19	55	29	24		
Carried forward	395	Cd. forwd.	339	Total,	1,000

The causes of this youthful beginning of immorality are: vicious and neglectful parents, absence of parent in gaol, or death of one or both parents, together with great facilities for making immoral acquaintance. The children of the very poor playing in idleness about the slums will, out of natural childish mischief and thoughtlessness, do things which their more fortunate richer brother does almost daily with no more serious consequences to itself than a slapping, and not always that, but which will lodge the friendless gutter-child in prison, and thereby start it on the way to a criminal career. Uninstructed in the elements of morality, how can a little starving wretch of 13 or 14 be expected to resist the temptation if it comes to him of helping himself to a mouthful of food from a barrow or a shop?

The following instances, given by the Rev. Benjamin Waugh,[1] will give some idea of the character of the "crimes" which under our present mistaken system may ruin a man for life by familiarising him with prison and branding him with its stigma.

"The gravest class of those juvenile "criminals" with whom I have had a somewhat intimate acquaintance, and to whose acquaintance I owe my correction and instruction as to their general character, are fairly represented by the following half-dozen cases. Remember, I am speaking now only of first 'crimes.'

"(1) On the day which chronicled the capture and incarceration of the first of these dangerous mortals, there might have been seen, lounging in a low street, a pale, shrivelled, languid-looking boy of twelve and a half. His father, a waterman, his mother a waterman's wife—a passable couple as the street went. How he was employed no one knew. He was neither at school, at home, nor at work. He gave no trouble to his parents, and made no noise in the street. Up to the time when he was taken by the police he had the good fortune, singular amongst idle boys, to bear not even the shadow of a reputation amongst his neighbours. Why did he steal? Listlessly strolling about, he saw a tame rabbit come through the open door of a walled garden. No person followed it, so he "coursed" it, caught it, and sold it. I believe he imagined that he had found it; he is one of many who, in some unlucky

[1] "The Gaol Cradle," 4th Ed., p. 23.

moment, take what is not theirs, as the stars are said to shine—'Because they've nothing else to do.'

"(2) Entering a small yard by a long passage leading out of a narrow, low street, we pass upstairs to the top room of a dingy, tumble-down house, let out in flats. The room contains a fire-grate, a window-frame, a little glazed, the rest stuffed with rags or nailed up with the staves of a demolished tub, a heap of filthy rags called a bed, and a gaudy picture of the Saviour. This murky place has a free circulation of air. Once it had a ceiling, but the lath and plaster ruin has ceased to be worthy of that name. The stars look through the tiles, and there is no door. Here the second of our young thieves lived with a younger brother. He is pale and thin, and rather tall for a lad of thirteen or fourteen. His mother, a widow, it was supposed, got her living nobody knew how. She paid visits at intervals to the boys, and then settled for the room and for the two pounds of potatoes served to them hot on a tray every morning; every other requisite they found for themselves. The night before the theft —a clear, still, bitter night—the thief-to-be lay with his brother, coiled up in their rag bed. Rising to a fireless grate and a fuelless cupboard, the shivering creature set out to get something to warm their den. Ice prevented his picking coal at low water from the Thames bank, so he filled his small bag from a coal-yard.

"(3) Ill, in lodgings, with a kindly old woman—so reputed among homeless boys—to whom he paid

ninepence per week, might be seen the boy who became the third thief. For some reason—the cruelty of his step-father he said—he had left his home, and had started in the world on his 'own hook' at the early age of twelve. His income arose from sweeping at a crossing, and now and then carrying parcels for passengers from the railway station. Whilst laid aside his rent got a fortnight into arrears. Bad times made it difficult for him to meet his current wants, and impossible to pay off the old score. The woman was kind, but the little fellow did not like to be in her debt. He stole empty wine-bottles from the yard of a gentleman's house, sold them for one shilling and ninepence, took the money to the woman, and said, 'Here is your money, Sally; and threepence to be going on with.'

"(4) Singing at the doors of gin-palaces might sometimes be heard the voice of a tawny, foreign-looking boy. His father, a box-organ grinder, has been some weeks dead. He is a general favourite in the neighbourhood, especially at the lodging-house, where, on the morning of the very day on which he attained one of those social distinctions which entitle to the notice of the British Press, it is said that he shared his morning meal with some aged tramp. And why did he steal? He was in love, and imagined his loved one would look better in a brooch; at all events, he had the fatal feeling that it would gratify her to have a present from him. He took the girl to a small brooch-dealer's shop window, she selected, and he romantically vowed that the next time they

met the brooch should be hers. To buy it was impossible. The shop was one where the master both sold and worked. Leading out of this was a door, half-glazed, and the glass was half-covered with a muslin curtain. Behind the door was a living-room. The critical opportunity at length came. The street-door was ajar, the master was at dinner, the brooch within three steps and an arm's length! Softly he enters, gently he stretches out his hand, the brooch is his, when, unluckily for the tawny boy, something falls, the master is after him, and in a few minutes, 'Love's labour lost,' the lad is in the hands of the police.

"(5) The fifth is a boy of thirteen, little more than skin and skeleton. Why did he steal? From sheer hunger. For a butcher was his victim, and his prize he ate raw.

"(6) The last is a good-looking, eager boy, whose 'theft' was rather wilful damage. Why did he steal? A tenth-rate greengrocer in a low part of the town had roused the ire of the neighbourhood by cruelty to a servant-girl. After cursing the man somewhat freely the boys resolved on doing him damage. At the side of his window hung a board announcing the price of coals and 'Orders received within.' That board must be taken. One lad, addressing another, said, 'Cabb, you loved her; you're the man.' Cabb was not forward to respond; but, 'Oh, Cabb's a coward; he's a jelly-heart;' and 'Cabb's no coward; he's game, boys, he's game,' put the requisite mettle into him. He was dared to do, and he risked to suffer."

Now it cannot be denied that these unfortunate boys were all the victims of circumstances; and that, so far from the acts which brought them into trouble being essentially immoral, in some of the cases a really generous disposition and loftiness of purpose was evinced, albeit obscured and misdirected by lack of training. Could each of these lads have had the advantage of moral training and good example, of regular work and a spirit of emulation, he would probably have grown up into a useful and respectable member of society. Even the slight supervision exercised by parents of the poorest classes over their children is found to have an appreciable effect in lessening juvenile crime, for, according to Mr. W. Lant Carpenter,[1] out of 107 boys committed to the Park Row Industrial School, Bristol, from 1864 to 1868 inclusive, only 56, or little more than half, had both parents living, and 44 only one; in 1885 of all the boys and girls committed to Industrial Schools in Great Britain, only 41·2 per cent. had both parents living and able to take care of them; of the rest, one or both parents were dead, criminal, or had deserted their children.[2]

§ 7. Granting, however, that in very many cases the commencement of a criminal career on the part of children is due to the absence of those who should attend to the formation in them of moral habits, and is by no means chargeable to

[1] Transactions of National Association for Promotion of Social Science, 1869, p. 234.

[2] Twenty-Ninth Report of the Inspector of Reformatory and Industrial Schools, 1886, p. 29.

any inherent natural viciousness or depravity in the children themselves, yet in other cases there is such depravity, the effect, as already pointed out, of heredity; other children, again, are of a nature to be easily led by unprincipled companions, or, being mischievous and obstinate, defy their parents. Even most of these, however, might, by careful and judicious training, by the exercising of their higher and the suppression of their lower instincts, while their natures are yet plastic, be moulded into upright men and women; but few are there among the class from which criminals come that are capable of so moulding the characters of their offspring: some are too busy, some too idle, some, having the will, possess not the requisite good judgment; some are quick-tempered or harsh, and, having thus alienated their childrens' affection, lose all the influence for good which they might have had over them. Thus we account for the 41·2 per cent. of youthful offenders, both of whose parents are alive and capable (physically) of taking care of them. The following typical case is given by the Rev. J. W. Horsley, sometime chaplain of Clerkenwell Prison, in the form of an autobiography written by the criminal himself. "I was born, in 1853, at Stamford Hill, Middlesex. My parents removed from there to Stoke Newington, when I was sent to an infant school. Some time afterwards I was taken by two pals (companions) to an orchard to cop (steal) some fruit, me being a mug (inexperienced) at the game. This got to my father's ears; when I went home he set about me with a strap

until he was tired. He thought that was not enough, but tied me to a bedstead—you may be sure what followed. I got loose, tied a blanket and a counterpane together, fastened it to the bedstead, and let myself out of the window, and did not go home that night, but met my two pals and dossed (slept) in a haystack. Early next morning my pals said they knew where we could get some toke (food), and took me to a terrace; we went down the dancers (steps) to a safe, and cleared it out. Two or three days after I met my mother, who in tears begged of me to go home, so I went home. My parents moved to Clapton. When they sent me to school, my pals used to send stiffs (notes) to the schoolmaster, saying that I was wanted at home; but instead of that we used to go and smug snowy (steal linen) that was hung out to dry, or rob the baker's barrows. Things went from bad to worse, so I was obliged to leave home again."[1] This lad became an habitual thief, and instead of doing his duty as a citizen, which he probably would have done had the twists in his nature been judiciously straightened in his boyhood, he lived most of his life at the expense of the community, whether in prison or out of it, and probably cost society more when at liberty than when kept in durance.

§ 8. We have now passed in review the chief causes which launch the youthful wrongdoer upon a criminal career, and I think they are not such as should make us despair; there is not one of which it can be said that it is utterly and hope-

[1] "Jottings from Jail," 1887, p. 5.

lessly inevitable. Heredity will certainly prove the most difficult influence to contend against; for heredity is the transmission to offspring of habits strengthened perhaps not only by years of indulgence on the part of the parent, but even through the course of several preceding generations. We all know how strong a habit which we ourselves have formed may grow, and what determination is required to shake ourselves free from it; so much so that men of weak moral fibre who have undertaken such a task frequently fail in it; how much more difficult, therefore, will it be to remove bad habits which have been strengthened by the growth of generations. Fortunately, in childhood all these tendencies are most easily modified, and there are good hopes that by taking in hand boys and girls who have been cursed with such an unfortunate legacy, at a sufficiently early age, and subjecting them to the most judicious treatment, we shall succeed at any rate in greatly weakening their vicious impulses, which will thus be transmitted enfeebled to their children; then, by dealing with these again in their turn, a further great improvement will be effected, until finally, after a few generations, no evil, but only good impulses, will be transmitted from parent to offspring. The only difficulty will be to find the means of removing the unhappy influences which are directed to warp the characters of the young; and, seeing that about 40 per cent. of criminals are convicted before the age of 20, and of those convicted between 20 and 25 vicious habits must in very many cases have been formed

at an earlier age, if we can achieve success in this investigation, more than half the crime of the country will have been abolished and centres of infection from which fresh crime may spread will have been enormously decreased.

To sum up, the active causes of all kinds are these: Defective training or total absence of any; immoral associates and bad example in prison as well as out of it; drink, idleness, and the hereditary transmission of evil tendencies. These causes, however, frequently overlap, and one is often found to be the effect of another; the only perfectly simple and absolutely final division is into the two main heads, Heredity and Environment, which comprise all others.

CHAPTER III.

AN INVESTIGATION OF THE EFFICIENCY OF PRESENT METHODS OF DEALING WITH CRIME.

"It has not failed to attract my observation, that whatever has been long administered by individuals, is apt so to engross their partiality, as to blind them to any inherent defect easily discernible by others."

—G. L. CHESTERTON,
"Revelations of Prison Life," vol. ii. p. 2.

§ 1. IF it could be shown that our present methods of dealing with crime were, on *à priori* grounds, likely to lead us to success, or that, viewing the circumstances *à posteriori*, considerable and satisfactory results were being attained, and that the total disappearance of wrong-doing is only a question of time, it were superfluous to carry the present investigation further. Before we proceed, therefore, it will be well to inquire what measure of success is attending our present efforts, and what probabilities there are that the most desirable result of all will some day be brought about.

The main object of those who devised the system now in operation was to *deter*—to force a man who had transgressed the laws to undergo an experi-

ence sufficiently unpleasant to make him hesitate before again subjecting himself to the risk of it, and at the same time to warn other men by the example made of the convicted offender. The feelings appealed to are those of terror and self-interest. Deductions were made, starting from the proposition, no doubt to a considerable extent true, that the criminal classes are composed of men entirely selfish, and desirous of living as well as possible with the least amount of labour, though it be at the expense of the labour of other men; that these drones of the social hive look upon thieving as a speculation wherein enormous possible gains are to be placed upon one side, the risk of detection and its consequences upon the other. The conclusion arrived at was that detection must be made so sure, and its consequences so unpleasant, as to induce selfish men to prefer even honest labour as the least unpleasant to themselves. It was argued, these men are impatient of restraint, therefore we must restrain them; they are fond of tobacco and drink, therefore they must have neither; they hate work, therefore we must make them labour; solitude will bring before them terrifying pictures of their criminal life in the past, and of the torments of sinners in the world to come, therefore they shall have plenty of it. The results of this insight and acute reasoning are penal servitude and imprisonment with hard labour—a system of almost unadulterated coercion.

§ 2. Now, assuming that the main lines of the scheme are the best possible, a doubt arises

whether the machinery employed is the most efficient: the two essentials for the success of the scheme are certainty of conviction and consequent conditions far more irksome to the convict than those to which he is accustomed when at liberty. Are these essentials secured?

From "Judicial Statistics" we find that for the years 1880–1884 the average proportion of persons committed for trial to the total number apprehended for indictable offences was about 74 per cent., and the average number of apprehensions to the crimes committed we gather from the same source to be about 42 per cent., so that the proportion of those committed for trial to the total number of indictable offences is about 32·5 per cent. But of persons committed for trial all are not convicted, the proportion being about 75 per cent; consequently, of those who commit indictable offences, only about 24·5 per cent., or say one-quarter, receive punishment for their misdeeds, and these offences are the most grave—such as murder, burglary, robbery with violence, and larceny. In the case of summary proceedings the convictions are more numerous, being about 80 per cent. of the total number of persons apprehended; but many of these cases are of a trifling character, and the list is swelled by the number of drunk and disorderly persons, by vagrants, and by offences against the Elementary Education Act. We are, then, to conclude that if a man commits a burglary or a robbery with violence the chances are three to one, not that he will be caught, but that he will escape detection: thus the first

essential to the successful working of the scheme is certainly not secured.

The next question is, Are the conditions to which a man is subjected when in imprisonment such as to induce him to prefer honest work rather than return thither? The author of "Five Years Penal Servitude" can help us to answer this question. He says, "A great many of the prisoners never slept in such good beds when free men. Men have told me repeatedly, especially men from agricultural districts, that they were better fed and had better beds in prison than ever they had in their lives before." [1] "A farm labourer has told me frequently that he worked far harder for his eleven shillings a week than ever he had at stone-quarrying or anything else in prison. When at home he seldom, if ever, had meat of any sort, and his bed was but a poor affair compared to his prison couch. Here in prison, comparatively speaking, he fared sumptuously every day, and I can assure the reader he considered the living luxurious compared to what he had at home. . . . In seven years he has got used to prison life. In fact, I question not only whether prison has not lost all its terrors to him, but whether, when he goes home and resumes his farm labouring, and the difficulties of maintaining his family on eleven shillings a week, he will not often look back with regret to the soup and the meat and the comfortable bed, with comparatively little work and no anxiety, of Dartmoor." [2] Even the terrifying

[1] "Five Years Penal Servitude," p. 169.

[2] Ibid. p. 300.

effects which solitude might have upon an evil and ignorant mind are alleviated or entirely prevented by the diversion which the convict is allowed to obtain from books; and all are taught to read. There is, however, conflicting evidence upon this point; and we have the statement of another convict to place against those of the author of "Five Years Penal Servitude."

"The prisoner Wright, in the course of his defence, said, 'I don't mean to undergo the sentence that will be passed upon me, because I know what I shall have to undergo. A sentence of penal servitude sends a man to what is worse than the life of a dog. I don't care what sentence is passed upon me, because I don't mean to do it. Your lordship passes a sentence of penal servitude, but you do not know what it means, and I will not undergo it.' . . . Wright addressed the Court again, and said, when once a man was discharged from Her Majesty's prisons he had no chance of obtaining a livelihood, and he was hunted about like a fox in a wood. The detectives would not permit him to get a livelihood, and he was compelled to go thieving again. He concluded by saying that he would not again endure the horrors he had suffered, and he would take the first opportunity of endeavouring to regain his liberty, and if he did not succeed he would go down to his grave like a dog." [1]

The statement of a prisoner of this man's character must be accepted with reserve; if he had been insubordinate in prison, and had thereby frequently

[1] *Standard*, Sept. 17, 1884. Trial of the Hoxton Burglars.

brought upon himself the unpleasant experience of the punishment-cells or a punitive diet, it is likely enough that he would not look back upon his stay there with feelings of complacency; but his statements have been to some extent corroborated by other ex-convicts, and, moreover, all prisons are not equal in point of comfort.

"This 'ere Dartmoor is a blessed sight better than Chatham, I can tell you; there's many a bloke there as is druv to suicide, it's such a 'ell upon earth. One chap, while I was there, threw himself down in front of the engine as works the trucks of earth out of the new dock, and was cut in half."[1]

The following doggerel corroborates this, and gives further information—

"Dartmoor is a tidy place,
Chatham is the terror of our race,
Portland is not quite so bad,
Broadmoor is for those stark mad,
Pentonville is the hill of London,
Borstal if you're there you're undone,
Portsmouth is a noted shop,
Brixton is a regular cop."[2]

Occasionally it happens that some of the warders are bullies and ill-treat the men under their charge; and doubtless the sense of constraint and the deprivation of luxuries must be irksome to a man, however comfortable he might be in other respects. But the question is, Is life in prison more irksome to a man of vicious habits and naturally indolent

[1] "Five Years Penal Servitude," p. 222.
[2] "Jottings from Jail," p. 31.

disposition, than honest work, which itself involves a certain amount of constraint and self-restraint, would be? In order that it should be so, I think a system of such severity and harshness would have to be adopted as would not be tolerated by the people of this country. If it were brought home to the minds of the people that in any prison the discipline was so rigorous that men were driven to suicide by it, a great outcry would at once be raised. The tendency at present is rather to make prisoners more and more comfortable, and so squeamish and tender-hearted has the public now become that even assuming coercive and deterrent methods to be the best, it is impossible to carry them rigorously into effect.

But assume that the burglar Wright spoke the truth; and grant that he found prison indeed a hell upon earth. What was the result? Did it produce the desired salutary effect upon him? Was he deterred by it from further crimes? No; he committed a burglary, accompanied by circumstances of great atrocity, and merited another term of penal servitude, to which he was sentenced for twenty years.

This is an instance of the well-known fact that habitual criminals are not men who weigh the results of their actions—they act largely upon impulse and trust to luck; and the terrors of a by no means certain imprisonment, however irksome, look shadowy and far off when the men are free and living their lawless lives.

§ 3. We may now proceed to inquire what measure of success has actually been attained.

If any system is perfect—or since absolute perfection is scarcely to be hoped for in proportion as that point is approached—the longer the convict is subjected to it the less likely he will be to relapse into his former vice; but this is certainly not the case with our present convict system.

"I know too well, that many—too many by far—have not the remotest intention of ever trying to live honestly. I have heard of men who have actually committed robbery in the railway train on their way home from prison." [1]

"I one day asked a man, who had the reputation of being a most expert hand at 'slinging his hook,' or picking pockets, as well as doing the three-card-trick and others of a similar kind, if the hard work of prison did not spoil his hands for delicate manipulations. 'Oh, bless you, no!' he replied; 'a few bread-and-water poultices, followed by wearing well-greased gloves, will set that all to rights. In a week or two a man can bring his hooks and feelers into full working trim again, and no mistake.'" [2]

"I have had several men ask me what I intended to do when released from prison, and have had all sorts of schemes proposed to me to join in. Two men who were in the association-room with me, and whose time would expire a few weeks after mine, were most urgent for me to join them in the very lucrative game of illicit distillation." [3]

"In another case, a young thief, aged about twenty-two years, who had already passed

[1] "Five Years Penal Servitude," p. 358.
[2] Ibid. p. 259. [3] Ibid. p. 272.

six out of a sentence of fifteen months incarceration, essayed to correspond with his associate in the robbery of which both were convicted. Detection followed the attempt, and we read sentiments, traced in his own blood, remarkable for unflinching hardihood. He exhorted his pal to keep up his spirits, and that advice was couched in the flash language of 'hold up your pecker.' He anticipated that they should yet 'work' together, and avowed his intention not thenceforth to stick at trifles or to work for nothing; 'he would try for something worth having next time.'" [1]

"In like manner are the shortsightedness and want of all reasonable calculation of this besotted class equally discernible. Endless detection and repeated imprisonments fail to influence their future schemes. It is useless to admonish or to warn. In vain may you attempt to illustrate the hopelessness of persevering depredation, by pointing to the notorious ill-success of antecedent attempts. The dogged and scowling expression assumed is clearly interpreted into contempt, and a mistrust of the counsel you tender, and the habitual observer can distinctly peruse the mental resolve to go on, relying upon their own favourite term—'Better luck next time.'" [2]

That most thoughtful man, Mr. M. D. Hill, often, in his Charges to the Grand Jury at Birmingham, spoke in disparaging terms of our system of imprisonment.

[1] "Revelations of Prison Life," 1856, vol. i. p. 12. By C. L. Chesterton.

[2] Ibid. vol. ii. p. 34.

"Society is injured by taking legal notice of any offence which is not visited with transportation. The effect of a short imprisonment is, so far as concerns the deterring of the offender and his associates, as transitory as the punishment; the prisoner is a degraded man, a member of the criminal class, who alone will countenance him, and with whom he must stay, willy nilly." [1]

"I have often had occasion to remark how rare it is to find any person who has had experience of criminals attach weight to deterrents." [2]

"But, gentlemen, the longer I sit on this bench, the humbler grows my opinion of the efficiency of criminal jurisprudence, especially as regards its deterrent operation, either on the offender himself, who is visited with the penalties of the law, or on those exposed to temptation, but who have not yet found their way into the dock." [3]

These extracts are quite sufficient for our purpose. Here we have the evidence of three men amply qualified by their position, and two of them certainly by their ability, to arrive at a true opinion upon this subject, and what makes their evidence the more valuable is that the relation of each to the object of our investigation is different, and each would observe the phenomena from a different point of view. One mingled with criminals, and could daily scrutinize their habits and their manner of thinking: they would look upon him as one of themselves, and express themselves to him without reserve. We cannot suppose

[1] "Repression of Crime," p. 110.
[2] Ibid. p. 46.
[3] Ibid. p. 72.

that he had any motive for misstating what he saw and heard while in prison. The second, George Laval Chesterton, was many years governor of Coldbath Fields Prison; and the third, Mr. Matthew Davenport Hill, was many years Recorder of Birmingham, in which position he gained a reputation for clearness of sight and marked ability. From the evidence of these men, then, we learn that even when the criminal is actually undergoing the deterrent treatment he is meditating new crimes, and that the terrors of incarceration when actually present before him do not frighten him into virtue and repentance. If, then, the realization of these terrors have so little effect upon him as this, what effect are they likely to have when they are receding into the past and their recollection is becoming dim; especially since, as already proved, his chance of escape after committing a crime is three to one? Our present penal system is not really deterrent, and cannot, with public opinion such as it is, be made so; even if the discipline of prison could be made excessively severe, we have the opinion of Mr. Chesterton and Mr. Hill [1] that the members of the criminal class are not of a character to be appreciably affected by deterrents of any kind. Probably, however, if detection could be made *absolutely certain*, and imprisonment seriously unpleasant, some effect might be produced; but neither of these condi-

[1] In case any one should object that the three works referred to are of somewhat ancient date, I give in an appendix some more recent opinions to the same effect, all expressed by men specially qualified to form them.

tions appears to be attainable. To secure one of the two conditions without the other would be useless, and the first, which is far the most important, is almost hopelessly difficult of attainment: yet to expect satisfactory results from the deterrent system with this factor omitted is absurd. In fact the experiment has already been made and proved a failure; there was a time when hanging was the punishment for most trifling offences, and when our prisons were dens of the most filthy, horrible, and pestilential kind, the unfortunate inmates of which were treated with greater brutality than wild animals in a cage. Capture was followed either by death or by loss of liberty coupled with a life of even greater discomfort than those who experienced it were accustomed to when free.

"A reference to various Acts of Parliament in force in 1777, and to Howard's works on prisons, shows that the penal and prison punishments then inflicted were of the most severe and cruel character. Felons were burnt in the hand, 'to fix on them a lasting mark of infamy and disgrace.' Transports were sold into bondage to the American planters, for the terms of their sentences; lesser criminals, during their imprisonment, were publicly whipped monthly at the market cross, and at market hours; prisoners of every class (except successful criminals who could purchase indulgences and exemptions) were subjected to the severest labour and privations. At the mere will of the gaoler, they were chained and fettered, lodged in dark and damp dungeons, and under-

ground cells, and exposed to disease and death from the gaol distemper, and from starvation by hunger or by cold." [1]

Yet those who had endured the horrors of imprisonment in those days were not deterred from again committing crimes, while others, as yet without experience in those horrors, neither by the fear of death nor by their knowledge of the sufferings they might have to pass through, were prevented from falling into a criminal career. Still less, when even murderers are not always hanged, and when the health, comfort, and education of convicts have become a care to a soft-hearted public, is the mere terror of a possible consequence likely to keep a man from a lawless life; and if we can detect any improvement at all, if there are any signs that the numbers of the criminal class show a tendency to diminish, and the number of crimes to become fewer, then certainly we must look for the explanation in some other fact than the deterring influence of our convict system.

§ 4. It may possibly be pointed out by some of the advocates of a deterrent system that, on an average, only a little over 45 per cent. of the committals in one year to Government local prisons are recommittals, and it may be inferred that imprisonment, as at present carried out, is efficacious in the case of about one-half the total number. Well, if this were so, it would not be much to boast of, and we ought to be far from satisfied with a system which fails as often as it is

[1] "Report of Select Committee on Prison Discipline," 1850, p. xxi.

successful: but, in fact, even this result is less satisfactory than on a superficial view it appears to be. For, in the first place, it is not always easy to discover whether a man has been previously convicted: criminals travel about much and change their names frequently, and if a man is convicted in Lancashire it may often be impossible to prove that he has previously been convicted under a different name in Middlesex; so that if we estimate the number of reconvictions at 50 per cent. we shall probably be under rather than over the mark.

Again, some men no doubt will be reconvicted very soon after liberation from their first imprisonment; others, while the unpleasant remembrance of prison is fresh, will try for awhile to live honestly, but finding, possibly, some difficulty in obtaining work, and becoming careless as the recollection of prison becomes dim, they will return to their evil courses, in which they may continue undetected for a considerable time; in these cases three or four years may elapse between the first imprisonment and the second: moreover, the number of recommittals includes men who have been committed twelve times and even more, so that twenty years may, in some cases, have elapsed since their first conviction; consequently, of the 50 per cent. of reconvicted men, in any given year, a number may have been convicted for the first time only one year previously, a large number three or four years previously, and a considerable number still as long as twenty years previously. It is impossible to say what the mean length of time will be,

but we shall probably not be over the mark in putting it at six years. Now, during those six years, men have been dying, so that many who otherwise would have been recommitted have, since their first conviction, ceased to live. The death-rate among men of the average age of re-convicted prisoners is certainly not less than 15 per thousand; consequently, during the six years, convicted men will have died to the amount of nearly 10 per cent.; and, according to the usual proportion, 50 per cent. of these would, had they lived, have been reconvicted; therefore we must consider that if there were no deaths the average number of recommittals would be, roughly speaking, 55 per cent. per annum: and this is probably rather an under- than an over-estimate.

Let us, however, consider a little further the 50 per cent. who are actually reconvicted in each year. Now, of men who commit crimes and misdemeanours there are two classes: one of which comprises those who have from their youth been associates of thieves, or in some circumstances which have militated against the growth in them of habits of honesty and industry, and who have therefore little regard for virtue and no character to lose; it is men of this class who are convicted again and again; the other class of first offenders consists of men who have previously borne a good character, but who, in a fit of passion, or from spite, or jealousy, or through inability to resist some great temptation, are hurried into the performance of some wrong action; these men, possessing, even though in

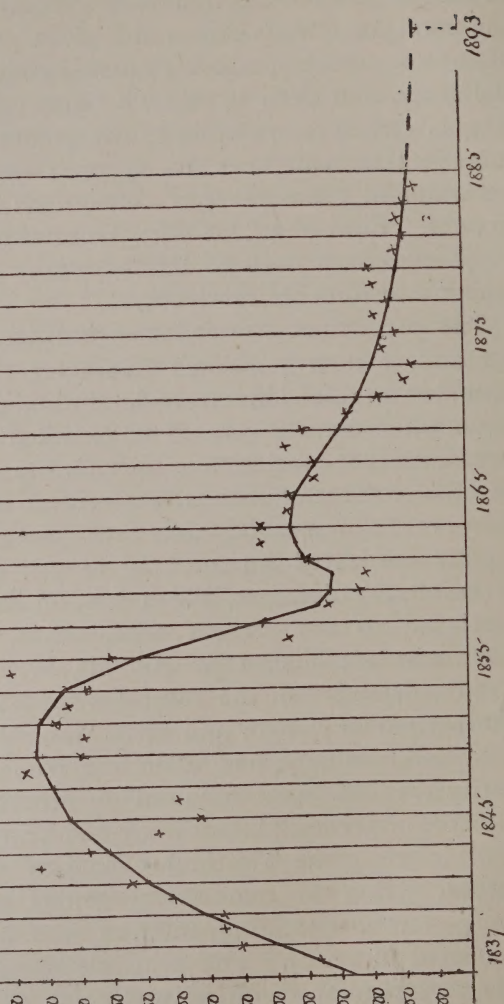
some cases but weakly, the moral sense and a desire to stand well with the world, are not naturally prone to perform bad actions, and even if unpunished for the first might never possibly offend again: men of this class will obviously be mostly found among the 50 per cent. who are convicted but once, and the only question is whether they are sufficient to account for all. Now, according to "Judicial Statistics," of all those who are charged with indictable offences, and those who are summarily convicted, from 46 to 50 per cent. were previously of good character; certainly it does not follow that these men and the 50 per cent. of once-convicted men are identical; but it is at least extremely probable that most of them are, and even assuming that 30 per cent. of the once-convicted prisoners consists of these men of previously good character, it follows that out of every seventy men of greater or less natural depravity with which it deals, our present system can only reclaim fifteen; and that is not much to boast of. This result, however, is founded upon conjecture, and it is open to any one to affirm, against the probabilities, that nearly the whole 50 per cent. are genuine criminals. It does not matter, the point is not a vital one; we must not be satisfied with a system which, taking an unreasonably favourable view, can only reclaim about 40 per cent. of really immoral men.

§ 5. In order that we may see at a glance what have been the fluctuations in the amount of crime in the past, and what are likely to be its fluctuations in the immediate future, it will

be best to plot out the figures in a diagram, taking the numbers of convictions in a given year as one of our co-ordinates, and the corresponding date as the other, and then to draw a curve approximating as closely as possible to the points thus obtained; this will show us at once the average variation in the number of convictions from year to year. First of all, we take the total number of those sentenced both to imprisonment with hard labour and to penal servitude.

The curve thus obtained is exceedingly interesting and of such a marked character that there should be no great difficulty in determining the influences which have regulated it, provided there are any. Unless the variation in the quantity of crime is purely the effect of chance, it is evident that about the year 1849 something came into operation which rapidly converted an increase of crime into an extraordinary decrease, which has, on the whole, continued to the present time. Now, in 1849, there was established at Redhill, in Surrey, a "Farm School" for the reception, education, and reformation of "boys and girls, who, by neglect or by bad company, had fallen into crime." This institution was soon followed by others, all the outcome of private philanthropy and benevolence; until, in 1854, the Youthful Offenders' Act was passed, giving to reformatory school managers the power of detaining children who had been convicted of crime. The principle came at once into very general operation, and great numbers of boys, who on release from prison would previously have returned to their old companions and way of

CURVE SHOWING THE RATE OF VARIATION FROM YEAR TO YEAR OF THE NUMBER OF SENTENCES:—

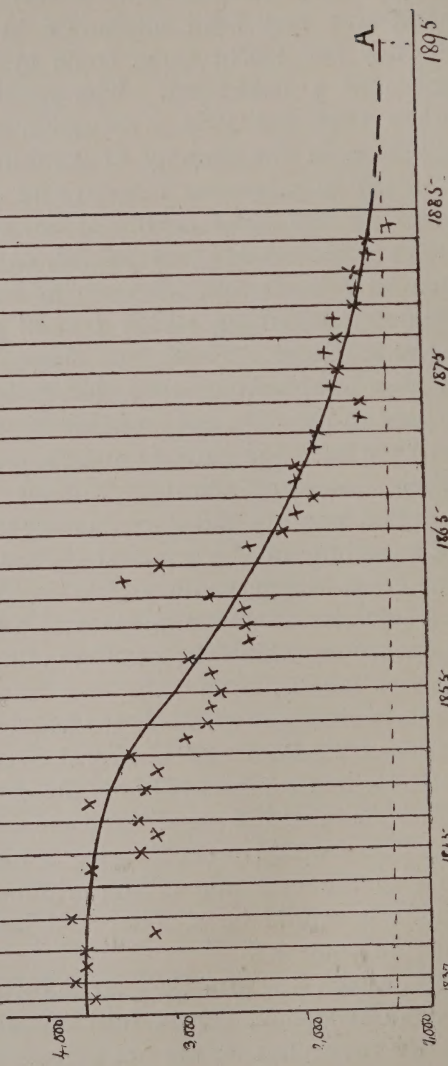


life, were now detained until moral habits and self-restraint had been implanted in them, and until they had learnt some trade by which they might earn a livelihood. The result was that between 1856 and 1860 a reduction was made of nearly 6000 in the number of juveniles annually committed to prison—a result quite sufficient to account for the rapid decline of our crime curve. In 1857 a second Act was passed, entitled "The Industrial Schools Act," recognizing another class of schools concerning which I shall have something to say later. These two classes of schools have been in operation since that time, and have increased in number, and probably in efficiency, as experience has been gained; and the annual report of them, made by the Government Inspectors, proves that they are acting very powerfully towards the diminishing of the criminal classes.

The curve which we have been considering, and which includes all those offences of a less important nature for which the penalty is imprisonment with hard labour, often only for a month or two months, is clearly more liable to variations depending upon accidental and temporal circumstances, than one which represented only the graver crimes to which sentences of penal servitude are assigned; such a curve would probably give a more correct picture of the variation of the criminality of the country; it would be steadier and less liable to sudden fluctuations.

Here, again, we find that an influence, having the same tendency, comes into operation about the same time; but we are not surprised to notice

CURVE SHOWING THE VARIATION FROM YEAR TO YEAR IN THE NUMBER OF THOSE CONDEMNED TO PENAL SERVITUDE :—



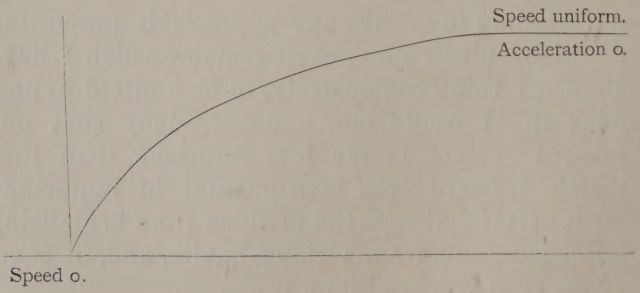
that it does not attain its maximum effect until about 1852–1854, a result we should naturally expect to follow from the more stable nature of this curve.

But beside the great influence which the reformation of the young has had upon the statistics of crime, there are other forces at work tending in the same direction ; private endeavour and combination has now for some time been engaged for the reclamation of those who have fallen, and for the assistance of such as are exposed to temptation. In many large towns Mission Societies have been formed which are doing useful work among the lower classes, and numerous Prisoners Aid Societies assist discharged prisoners to obtain honest labour ; we must also probably credit the spread of education with a certain proportion of the success which has been attained. All these influences combined will be sufficient to account for the diminution which has of recent years been taking place in the number of crimes, without our needing to ascribe any appreciable proportion of this result to our convict system, which I have shown, I think conclusively, to be unfitted to produce it. I would not, however, deny that our present system is far less injurious than that which Howard was instrumental in removing; for it certainly keeps the prisoner from brutalizing influences, and from vicious habits, and, in some cases, even teaches him a trade.

§ 6. Assuming, then, that we are correct in ascribing such diminution of crime as is observable to those causes we have mentioned, the ques-

tion next arises, Will crime, under the constant operation of those causes, continue to grow less and less, until eventually its amount becomes a vanishing quantity ?

An analogy taken from physical science will help us to answer this question. If full steam could be admitted into the cylinders of a locomotive just starting from a station, a certain acceleration would be produced, the amount of which might from time to time be ascertained ; and it would be found that for a given steam-pressure the acceleration would be greatest during the first second, and would become gradually less and less every second until eventually it became o, when the speed of the train would be uniform ; and in order to get a greater speed a higher steam-pressure would be necessary. If, therefore, the speed of the train under a constant steam-pressure, from starting to uniform speed, be plotted out in the form of a curve, it will be of this kind—



The curve starts at a sharp angle to the horizontal axis, which gradually becomes less, while the curvature becomes flatter, until we eventually

get a straight horizontal line. Now I think tha if any one will compare this curve with the curve on page 66 he will be struck with the resemblance, the only difference being that the curves are reversed; and since analogous effects are produced by analogous causes, an investigation of the action of the forces which determine the physical curve may teach us something about those which determine the social curve. In the case of the steam-engine, if the steam-power is assumed to be kept constant, it is at once obvious that a progressively diminishing acceleration can only be due to a progressively increasing resistance. Let us, provisionally, make a similar assumption in the case of crime; that is to say, suppose a given number of reformatory influences of various kinds to have been acting since A.D. 1850, constant in amount and efficiency; then, if the resistance to those influences had been constant, we should have found that our curve was a straight line; but it is not; it resembles the curve which we obtained for the speed of the locomotive, the curvature of which was accounted for by an increasing resistance: therefore, on our assumption, it follows that the resistance to reformation of criminals becomes constantly greater as their number decreases. But everybody knows that the reformatory influences have been increasing in quantity and efficiency, so that, on the assumption we made, viz., that these influences were constant, our curve would have made the resistance appear to be less than it is; and since, as a matter of fact, it shows it to be increasing, it must really be

increasing at an even greater rate. We may therefore draw this conclusion: as the criminal classes yield to the reformatory influences brought to bear upon them the decreasing residuum becomes more and more stubborn and refractory, and in a few years time our present methods will only suffice to keep the numbers stationary. By continuing the curve on page 66 until it becomes horizontal we can determine approximately when this state of things will be reached, and we find that it happens at the point A, corresponding pretty nearly with the year 1895. In that year, then, unless some more efficient method of dealing with criminals be discovered, a minimum will be reached of 1,300 convicts per annum.

But there is another point to be considered. In the case of the locomotive the resisting forces are passive; that is, are called forth by the action of the locomotive itself—not acting at all when the engine is stationary, and becoming constant as soon as the motion is uniform. If some of those forces, besides being increasing, were active, they would continue to increase after the acceleration had been reduced to zero, and unless more steam could be turned on the velocity of the train would begin to grow less and less. At this point, then, our analogy fails, and in a manner which is unfortunate for us; for some of the forces which resist the diminution of crime are undoubtedly active. It is surely undeniable that if no action of any sort were taken against crime, either by individuals or by the state, the number and gravity of crimes would increase. Stop the locomotive

and resistance becomes zero—the force is passive; cease all efforts to check crime and the opposing forces will increase unrestrained—they are active. When, therefore, by our present reformatory action, we have reduced crime to the minimum just mentioned, after remaining a short time stationary, it will begin to grow with constantly increasing acceleration.

§ 7. Although the result we have arrived at will probably have been previously unsuspected by many people, there is nothing surprising in it. The rapid increase of population; the ever-growing number of mouths to be fed, and consequent greater difficulty of providing each with food; still more important, the enforced idleness, coupled with hunger, which keener competition for work is multiplying: all these things tend to the growth of crime, and may be termed the active resisting forces. Moreover, it is obvious that when we set to work to reform a given number of men of largely varying degrees of depravity, the least corrupt by nature and by habit will be the first to yield; a residuum of extremely refractory material will eventually remain, which may defy all our efforts. An improved system will perhaps lessen this again, but it is probable that a certain amount of dregs will remain irreclaimable by any method man could devise, and which must be dealt with in a different way. The resistance here described is of the character which we have called passive.

The net result of our discussion is that our present system of criminal jurisprudence has been found to be very little worth; that certain re-

formatory influences, very largely the outcome of private endeavour, private generosity, private benevolence, have very appreciably reduced the amount of crime during the last thirty-five or forty years; that these influences have produced nearly all the effect of which they are capable, and that, unless the satisfactory decrease of crime is to be ere long converted into an increase, new and still more efficient methods must be adopted.

It now remains for us, therefore, to inquire whether any such methods are discoverable, and, if so, on what lines.

CHAPTER IV.

FIRST PRINCIPLES.

"Put a carpenter into a blacksmith's shop, and set him to forge, to weld, to harden, to anneal, &c., and he will not need the blacksmith's jeers to show him how foolish is the attempt to make and mend tools before he has learnt the properties of iron. Let the carpenter challenge the blacksmith, who knows little about wood in general, and nothing about particular kinds of wood, to do his work, and, unless the blacksmith declines to make himself a laughing-stock, he is pretty certain to saw askew, to choke up his plane, and presently to break his tools and cut his fingers. But while everybody sees the folly of supposing that wood or iron can be shaped and fitted without an apprenticeship, during which their ways of behaving are made familiar, no one sees any folly in undertaking to devise institutions, and to shape human nature in this way or that way, without a preliminary study of man, and of life in general as explaining man's life."—HERBERT SPENCER, "Study of Sociology," p. 354.

§ 1. IT would be considered the height of folly for an artificer to attempt to mould and fashion into a useful or ornamental article a raw material of which he knew not the nature and capabilities. To blow glass, to forge iron, to cleave slates, to make porcelain out of clay, would be impossible before

the properties of these substances had been discovered; and yet people seem to imagine that they can devise means for converting villains into honest men, without having any acquaintance with the science that treats of human nature. Show a piece of glass rod to a person ignorant of the nature of glass, and ask him how you are to bend it at right angles; he might reply, "Use force until it bends." Thus legislators, who have never studied psychology, on having to solve the problem of the deflection of a human character from crooked into straight courses, have hit upon no other method than constraint and the use of force. We still persist in the application of the deterrent system, although thoughtful men who have been brought into close contact with criminals declare that such persons are not of a character to be acted upon by deterrents; and facts have been given in the previous chapter which amply corroborate this opinion.

§ 2. If we wish to devise a really philosophical method, the important truths which have been established by psychologists must not be overlooked. Now of all the laws which have been formulated with regard to the human mind, the most important for our purpose is that which has been called, in its different bearings, the Law of Relativity, Change, or Transition, which, simply stated, is this: that no *second occurrence* of any stimulus, or shock, or experience, whether of pleasure, pain, or mere excitement, is ever fully equal to the first, even though a considerable time may have elapsed between the two; and if the

same stimulus or experience comes repeatedly in rapid succession, the mind at last becomes quite unconscious of it.[1]

This psychological truth depends upon a physiological fact, namely, that every impression made upon our senses from without, being conveyed by means of the nerves to the ganglia and cells of the brain, cause a chemical change to take place in the cell, which never afterwards becomes reconstituted as before, but retains, so to speak, a memory of the impression it received, and thus remains predisposed to receive a similar impression, and will receive it with a slighter shock and disturbance of consciousness. Our minds are thus being constantly modified by impressions from without, and a great part of the change takes place unsuspected by ourselves, through the means of great numbers of very slight impressions which we are continually receiving. A man's character is thus slowly and imperceptibly changed by his surrroundings, since every experience leaves a memory, technically called a "residuum," in the nervous matter of his brain, and by these "residua" his future conduct will be modified. Any one may recall instances of the operation of this law. It is well known that a soldier in his first battle feels a certain compunction to kill, which afterwards entirely passes away; miners become quite indifferent to the dangers to which they are constantly exposed, and often pay for their carelessness with their lives; railway servants are killed because the

[1] Prof. Bain, "Mind and Body," chap. iv.

familiar roar of an approaching train has made no impression upon their consciousness. Similarly habits become formed in human beings, a deviation from which at once brings a feeling of discomfort; we have heard of boys who always held a particular button, or put their hands in a particular position when saying their lessons, and could not remember them otherwise; there is a well-known story to the effect that Dr. Johnson, when walking through the streets, was ill at ease unless he struck every post which he passed with his stick.

§ 3. The same thing applies to crime. Every man inherits certain characteristics by which he is predisposed, more or less strongly, to good or bad actions; but in childhood, when, as we know, the mind is most open to impressions, the character may be greatly modified by the formation of habits. Every cultivated man has his character carefully moulded into certain habits of civilized life, and these become to such an extent a part of his nature that a departure from them causes discomfort. Thus when a man has had ingrained into him the simple habit of washing his hands before a meal, he cannot eat with any pleasure if he notices that his hands are dirty; but the honest labourer will eat his bread and cheese with grimy fingers, and enjoy it. To see a vulgar person disregarding the amenities of civilized life, even though what he does is perfectly harmless in itself, always jars upon a man in whom habits of refinement have been inculcated; and the repulsion which dishonour and crime

have for a virtuous man is of precisely the same kind. The first act of dishonesty by a previously honourable man is attended with great mental anguish, the second is much more easy, and, if the practice is continued, a completely demoralized nature is the result, and the most disgraceful acts are at length performed without compunction. Now, if the temptation comes to a man while yet of tender years and before habits of rectitude have been ingrained in his nature, the mental pain accompanying the dishonourable action will of course be much less, and the resistance made to the temptation much more slight; and this even in the case of a boy who was born of virtuous parents—much more would a boy who had inherited vicious tendencies, and had received little or no training, succumb easily to temptation. The children, therefore, of the criminal classes, naturally prone to vice, and never having had fostered in them the habit of right-doing, will sin without compunction and almost without knowing it; and, if they are allowed to remain among the same surroundings, the habits of wrong-doing will become their nature, and grow stronger with their growth, until to do right is as irksome to them as to do wrong is to a virtuous man.

§ 4. We may conclude from this that what has been called *conscience* is really *habit*. Some people seem to imagine that every man has, at birth, an inward entity of some mysterious kind which makes him uncomfortable whenever he does wrong, and whose admonitions become gradually weaker as they are disregarded. If so, every man

ought to start fair with a conscience of equal activity and alertness, which is not the case. The children of vicious parents have no conscience to speak of, and the children of virtuous people, naturally predisposed to virtue, get a conscience of greater and greater efficiency the longer they persist in the habit of doing right. This fact has lately been curiously corroborated by some experiments in hypnotism made by M. Voisin, one of the physicians at the Salpêtrière. The subject of the experiments was a criminal lunatic of a most depraved character, to whom, after having with some trouble hypnotized her, M. Voisin suggested the performance of orderly actions; the operation was daily repeated, modest and regular habits being gradually impressed upon her while in the state of trance, until they at length became a part of her nature, and she was discharged cured of her insanity and of her vice. Other experiments of a similar character, and equally successful, were made.

§ 5. Let us apply the result we have attained to the solution of our problem. We have found that what makes vice repugnant to virtuous men is the force of habit, and that habits are most easily formed when a man is young; it follows, therefore, that if criminals are to be reformed, we must give them a conscience—in other words, we must implant in them the habit of doing right, and if, since prevention is better and easier than cure, we wish to check the manufacture of criminals, we must take measures for preventing the formation of vicious habits in children, for

eradicating such evil tendencies as they may have inherited, and for fostering in them habits of industry, honesty, and self-control.

§ 6. There can be no doubt that this is feasible. Shakespeare has truly remarked, "How use doth breed a habit in a man!" And why not a habit of being virtuous as much as any other habit? Habits of all kinds are affections of the mental state, and may therefore be reasonably employed to affect that particular state of mind which we call a disposition to crime. Use or custom will breed in any man the habit of doing any action to such an extent that not to do it becomes most difficult, and those actions which we call virtuous cannot be excluded from the operation of this law; and since, on the other hand, by the law of Relativity, a new experience causes a greater shock to consciousness than one which has been several times renewed, the first step in the direction of crime will be most difficult for a man whose mind, by training, has been impregnated with the feeling that dishonourable actions are to be avoided, and in whom, by use and custom, behaviour of an opposite character has become a habit.

§ 7. We observe that every consideration leads us to the necessity of dealing with the young. We found in a previous chapter that probably half, possibly even more, of those who enter into a criminal career, committed their first crime or misdemeanour at an early age; and now, having found that virtue and vice are essentially habits, we see the importance of cultivating habits of rectitude at an age when the mind is receptive

and before we are anticipated by the formation of habits of vice.

In order to effect this purpose we must have schools of a special character to which those children who are likely to be exposed to temptation may be sent, and to a certain, but limited, extent this system is at the present time in operation, there being in different parts of the country reformatory schools for the reception of young criminals. It will be well to inquire what success these schools have had, and whether the system may be advantageously extended.

CHAPTER V.

THE PROPHYLACTIC METHOD.

"Thus arose the science of prophylactic medicine—the highest development, though not always the most appreciated part of medical science—a branch which is yearly making rapid progress, and to which, rather than to the curative medicine, we must look for the greatest advance and for the most beneficent results of the so-called healing art."—*Extract from a Paper read by Dr. Walter Carr before the Medical Society of University College, London.*

§ 1. The first attempt at the reformation of the young who had fallen into crime was made in 1818 by the establishment, at Stretton-on-Dartmoor, in Warwickshire, of an industrial school. Mr. M. D. Hill, when Recorder of Birmingham, paid this school a visit, and it is from his report [1] that the following facts are taken. The building was a farmhouse of a humble description, but the arrangements were clean and orderly, and the boys who were its inmates had the advantage, perhaps for the first time in their lives, of experiencing the comforts of a well-regulated home. The boys were taught trades, such as tailoring,

[1] "Repression of Crime," p. 52, et seq.

shoemaking, and others ; their food was good and wholesome, but not luxurious ; books were of course provided for instruction and amusement, and the influence which was mainly relied upon in dealing with the boys was the effect of kindness and confidence. There was no attempt at imprisonment, nor any continual spying upon the boys' movements, yet we are told that desertions were rare, and only happened in the case of newcomers. The results of this asylum were satisfactory, and many boys were permanently reformed. But if England was the country which set the example in this direction, a reformatory school established in France at Mettray, in 1839, was the first to demonstrate most conclusively on a large scale the feasibility of reclaiming youthful criminals, and probably its success had a good deal to do with the extension of the reformatory system in England. The asylum was founded by M. Demetz and the Vicomte de Bretignères de Courtelles, men admirably fitted for the arduous and important work they undertook. And I should like to observe here that, next to having a good system, the most important thing is to get a competent man to work it ; the one without the other is quite worthless. Human nature is a delicate and complex material to deal with, and it is by no means everybody who is competent to handle it or work with it, but there are men who are naturally endowed with instincts and with a temper which fits them for this duty ; and it is essential that any system which has been devised for dealing in any way with the characters of human beings, should

be entrusted for its carrying into effect to one of these persons, otherwise complete failure is certain, no matter how perfect the system may be. M. Demetz was pre-eminently fitted for such a work, and his endeavours were crowned with great success. The method he adopted was the division of the boys under his care into families, consisting of 40 each, presided over by a suitable man who was called the father, and who taught his wards a trade; in order to rouse a healthy spirit of emulation, each family was divided into two sections, and these chose from among their number an "elder brother" to preside over it, and who became entitled to certain privileges. The discipline was strict, but not suspicious or irksome, and it was tempered by humanity and justice. The principle of the system was simply the fostering of self-respect, and of habits of industry and honesty. The results were most satisfactory, the percentage of reformed being 85 against 15 unreformed, and the nett cost per head per annum being but £14; the profits of the boys' labour, of course, went to reduce the expense. Both these experiments proved that much more may be done by placing confidence in boys than by physical restraint and galling supervision; much more by kindness than by harshness; and the remarkable extent to which the boys of Mettray justified the confidence reposed in them was proved by a circumstance recorded in the *Journal d'Indre et Loire* for November 20, 1856, from which the following passage is an extract: [1]

[1] "Repression of Crime," pp. 133, 134.

" C'est ici, Messieurs, le moment de vous parler du concours qui nous a été si généreusement donné par la Colonie de Mettray.

" Le 2me Juin, dans la matinée, M. Blanchard, Inspecteur de la Colonie, vint, en l'absence de M. de Metz, nous offrir le concours de ses jeunes colons (the occasion was a great flood of the Loire, which threatened the city of Tours with destruction), concours que nous acceptâmes avec reconnaissance. Quelques heures après, au moment où la place de l'Hôtel de Ville était encombrée de curieux oisifs d'habitants qui hésitaient encore à aller travailler aux levées, on vit déboucher par le pont, musique au tête, armés de pelles et pioches, et marchants avec la précision d'une troupe militaire, 300 jeunes colons de Mettray, sous la direction de l'honorable M. Blanchard.

" Ils étaient accourus à la nouvelle du danger qui nous menaçait, et après s'être reposés un instant et avoir pris nos instructions, ils se rendirent sur la levée du canal, où ils établirent un chantier qui a pu servir de modèle pendant le reste de la journée du Lundi, pendant toute la nuit suivante, et pendant la journée entière du Mardi, 3 Juin.

" Honneur à eux, honneur à cette belle institution de Mettray, qui régénère de jeunes gens égarés au point d'en faire des hommes d'élite ! "

The Municipal Council of Tours, in gratitude for the services rendered by the Colonie, caused a medal to be struck commemorating the event.

§ 2. The possibility of reforming young criminals thus having been demonstrated, schools for this purpose were founded in England by philanthropic persons, and have gradually increased in numbers up to the present time. They are of two kinds, both of which have been recognized by Act of Parliament, and are called Reformatory and Industrial Schools respectively. In order that a boy or a girl may be sent to one of these schools it is usually first necessary that the law should be broken ; the culprit being brought before a magistrate, is then, according to the discretion of this officer, sent either to a reformatory or to an industrial school, but he may, of course, be sent to prison. The discretion of the magistrate is, however, limited by the proviso that no boy who has been previously convicted may be sent to an industrial school. The reformatory schools for boys usually have a farm or garden, and often both, in which the boys are taught to work, and in many of the schools clothes and boots are made and repaired by the inmates. The girls' schools are fitted with a laundry ; and sewing, cooking, and the duties of domestic servants are taught. Elementary education is attended to in all these schools. The inmates of the boys' industrial schools are taught various trades and handicrafts, such as tailoring, shoemaking, carpentry, printing, and others. The industrial training at the girls' industrial schools is similar to that given at the reformatory schools. Education is properly attended to.

The actual results attained have been most

satisfactory; for the years 1882, 1883, 1884, the following figures are given by the inspector.[1]

Number discharged in the three years was 4,920; viz., 3,998 boys and 922 girls.

Of these, 111 had died, viz., 91 boys and 20 girls, leaving 3,907 boys and 902 girls to be reported on.

Of the 3,907 boys—

3,000,	or about	77	per cent.,	were doing well.
81	„	3	„	were doubtful.
569	„	14	„	had been convicted.
257	„	6	„	were unknown.

Of the 902 girls—

660,	or about	73	per cent.,	were doing well.
97	„	11	„	were doubtful.
46	„	5	„	had been convicted.
99	„	11	„	were unknown.

In the case of industrial schools the following figures are given.

The total discharged in these three years, omitting deaths, transfers, and committals to reformatory schools, was 9,893; viz., boys 8,066, girls 1,827.

Of the 8,066 boys, 178 had since died, leaving 7,888 to be reported on. Of these—

6,507,	or about	82·5	per cent.,	doing well.
220	„	3	„	doubtful.
355	„	4·5	„	convicted.
806	„	10	„	unknown.

[1] Twenty-ninth Report of the Inspector of Reformatory and Industrial Schools, p. 21.

Of the 1,827 girls, 42 had since died, leaving 1,785 to be reported on. Of these—

1,473,	or about	83	per cent.,	doing well.
143	„	8	„	doubtful.
26	„	1	„	convicted.
143	„	8	„	unknown.

§ 3. The averages of these three years approximate very closely to those of preceding and following years, and may be taken as representing the normal results of the reformatory treatment employed in these schools. The system is clearly the right one, and we can now readily understand how a considerable proportion of the decrease of crime which has taken place since 1850 may be accounted for, and we must be encouraged to advance yet further in the same direction. We find that the percentage of reformations in the case of juveniles discharged from industrial schools is considerably higher than in the case of those discharged from reformatory schools; and the cause is obviously this: that in the latter case the subjects of treatment had already been convicted at least once, and had been subjected to the demoralizing influence of prison. Now it is certainly not likely that a boy will invariably, or indeed usually, be detected and convicted in his first lapse from the path of virtue, and therefore we may safely assume that out of a hundred boys, all of whom have been convicted at least once, a large proportion have broken the law several times; consequently we infer that the young people who are placed in reformatory schools are

more hardened in vice than those who are sent to industrial schools. The figures given by the inspector are therefore a corroboration of a tolerably obvious assumption that the earlier we apply remedies to the diseased mind of one who has fallen into a career of vice, the more easily shall we effect a cure; and greatest of all will our success be if we can take such measures as will prevent that career ever being entered upon at all.

At present it seldom happens that a juvenile is sent even to an industrial school until a breach of the law has been detected, which, as just pointed out, probably implies several others undetected; we have, therefore, abundant scope for the extension of the present system, and great encouragement to attempt it. For we have seen that boys and girls to whom the system is applied on their first conviction are less refractory than those to whom it is applied after they have been at least once previously convicted; and we may proceed to draw the conclusion that greater still would be our success could we deal with these young people before any crime has been committed by them at all.

§ 4. There is yet another and an important consideration. We have already found reason to believe that about 50 per cent. of adult criminals became corrupted in youth, probably before the age of twenty-one; and we may conclude from this that numbers of juvenile law-breakers are not detected until they have passed the age at which they can be sent to a reformatory school, and

have become so hardened in vice that they would with great difficulty be reformed by any means.

As Cardinal Manning has said: "There is no doubt that in every great city there will be a refuse of the population who, through their own perverse will, blind conscience, and evil passions, gather together into a demoralized and dangerous horde. But it is also certain that each was once an innocent child. The bloated and brutal man, if he had been nurtured by a loving mother in a pure home fit for man to live in; if he had grown up in the consciousness of a Divine law and presence; if he had lived in honest labour, . . . he would not have become the wreck in body, mind, and speech which we may see in our streets every day. If parents, teachers, pastors, had been faithful, if the legislation and administration of public and social law had been conceived and carried out, not with a view to money, . . . but for the moral and domestic life of the people, though some men will always wreck themselves, society would not be guilty of the ruin of its offspring."[1]

Could influences have been brought to bear upon these persons sufficiently early, and of the requisite nature, we may suppose that at least as large a percentage of them would have been preserved from sin as are cured by the reformatory school treatment; and this is an unfavourable assumption, because the subjects of the supposed treatment would not yet have been demoralized even to the extent of having committed one breach

[1] *Nineteenth Century*, vol. xxiii. p. 329.

of the law, whereas the inmates of a reformatory school must, most of them, have done so many times; but even in the latter case the number of reformations is about 75 per cent., so that we are justified in hoping that, could we take young people in hand before they have yielded to temptation at all, we should achieve a very remarkable success and reduce the criminal classes by one-half.

§ 5. But this is not all. There are in all large towns men who have done little all their lives but loaf about, looking for odd jobs, sometimes begging, sometimes in the workhouse, seldom doing any really useful work. Such a man begins as a boy by carrying bags and parcels for commercial travellers and others to and from the railway station for a few pence; he runs after cabs to open the door and lend a hand with the luggage; he always has a pinched hungry-looking face and is scarcely covered by rags; one is almost inclined to feel astonished that he has been able to procure anything to put on at all. Now, even supposing that this wretched being never illegally helps himself to what does not belong to him, he is certainly supported during a considerable portion of his life by the State; and when he dies from insufficient nourishment and starvation, he leaves society very little better for any work that he has done during his life, while he has certainly been a consumer, though not a great one. He has been a drone—a creature which the intelligent bees will not tolerate in their hive, although men, who pride themselves upon their

intelligence, will tolerate it in theirs. It may be urged that claims of humanity override the theories of political economy in such a case; but this objection is not to the point, because I do not for a moment attempt to limit the private benevolence of any person whose humane impulses may induce him to assist any less fortunate human being, I only object to the support of useless creatures *by the State*. But even on this I am not insisting now, my wish being to draw attention to the great desirability of dealing with these men, when quite young, in such a way as to prevent the formation in them of ingrained habits of idleness, which is only a step short of crime, and inculcate instead thereof habits of industry and thrift, so that they may become useful members of the community, and may produce, by their labour, useful articles of such value as to pay the State a good interest upon the money originally laid out upon them, and may be to the State not a drain but a source of profit.

I started by assuming that the class of men just considered is nothing worse than idle; but this is certainly not quite true; for idleness leads to drunkenness, and drunkenness we have found to be the most prolific cause of illegality, and we found reason to believe that idleness pure and simple itself not infrequently leads to the same result; and, further, temptation to steal will undoubtedly be resisted with far the most difficulty by a hungry man, unless he be of high principle; but men of the class we are now considering are often hungry and very rarely of high

principle. We have, therefore, good reasons for believing, what is antecedentally probable, that members of this idle class are continually drifting into the criminal class; and by dealing with the former in the manner proposed, a source of recruits for the criminal horde will be cut off.

§ 6. We conclude, therefore, that if we can take in hand at an early age all such as are likely to develop into drones or criminals, the only remaining means whereby the criminal class can be swelled, will be by those who prove refractory under our treatment, and those who, having been at any rate passably honest and industrious, suddenly, from some cause or other, commit a crime or fall away into a vicious career. These latter will probably not be numerous, and we have found reason for believing that the former will be very few indeed. Should we succeed, then, crime will be enormously diminished, and such a prospect ought surely to invite us to great efforts, grudging neither labour nor expense. Now there is one way, and one only, by which embryo criminals may be caught and dealt with before inherited tendencies have had time to develop or evil example to make itself felt, and that is, for the State to take under its own absolute control all children found in the streets without visible means of subsistence, or who seem to be neglected by their parents. If the State is to interfere in the matter at all, it cannot logically stop short of this. At present any boy may be brought up partly at the expense of the State, obtaining the advantages—which he no doubt afterwards appreciates, if

not at the time—resulting from technical knowledge and habits of industry; but in order to qualify for these advantages it is, as a rule, first necessary that he shall commit a crime, or, at least, break the law: should he prefer to remain honest, he may starve; let him steal a loaf and be caught doing it, and he will probably be comfortably provided for for some years. I do not suppose that the premium thus placed upon youthful delinquency has, in practice, any appreciable effect upon the amount of juvenile crime; it is, however, an injustice and an inconsistency; and if we have once admitted the principle that the State may take and educate and train children, we cannot logically limit the enjoyment of this great advantage to those who have done wrong; still less ought we to do so now that it has been shown how great an advantage it would be to the State, by extending the system, to substitute for a lazy or criminal class a body of industrious and trained workmen.

There is really nothing at all new or startling about this suggestion, as may be shown by the following extract from the Industrial Schools Act:

"*Section* 14. ANY PERSON may bring before two Justices or a Magistrate any child, of either sex, apparently under the age of 14 years, that comes within any of the following descriptions, namely:—

"That is found begging or receiving alms (whether actually or under the pretext of selling or offering for sale anything) or being in any Street or Public Place for the purpose of so begging or receiving Alms;

"That is found wandering and not having any home or settled place of abode, a proper Guardianship, or visible means of Subsistence;

"That is found destitute, either being an orphan or having a surviving Parent who is undergoing Penal Servitude or Imprisonment;

"That frequents the company of reputed thieves. The Justices or Magistrate before whom a Child is brought as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient to deal with such child under this Act, may order it to be sent to a Certified Industrial School."

This important Section has not been at all thoroughly enforced, and we may perhaps find the reason for this in the two first words of it, "*Any Person*"; for it is proverbial that any person's duty is no person's duty; so that the Act should be amended either by giving this duty to some class of persons already organized, or by appointing a special body of men for the purpose.

§ 7. Power should therefore be given to the police, or some other body especially appointed, to take all obviously destitute children, between certain ages, whom they may see idling, begging, or hawking matchboxes and other small articles in the streets, and lodge them temporarily in some place provided for the purpose—*not* a prison cell—until inquiries have been made as to their place of abode, whether they have any parents, and if so whether they are properly cared for by them, with any others that may be thought necessary; the child should then be brought before a magistrate

and the results of the investigations which have been made laid before him, and he, at his discretion, would either discharge the child or commit it to an industrial school. The distinction between industrial and reformatory schools would still be maintained, with this modification: that children who were detected in a breach of the law would be sent to the latter, but to the former only those would be committed who had not yet transgressed at all. Of course this would necessitate the building by the State of more industrial schools than at present exist, besides involving expenditure in other directions.

§ 8. This scheme may perhaps appear to some to be of an heroic or even impracticable character. It is, however, certainly not unprecedented; for at Sparta, under the discipline instituted by Lycurgus, *all* Spartan children were at a certain age separated from their homes and reared and educated by the State—a custom which in no small degree contributed to the pre-eminence which Sparta long enjoyed among the other Grecian States. It is no doubt a sound principle that the less power government has of interfering with private individuals the better, and such a system as that once in operation at Sparta is now quite inadmissible, for such an interference with the freedom of children is really an interference with the freedom of their parents or guardians, who may naturally feel aggrieved at being deprived of the pleasure of watching the gradual growth of little ones whom they love, and of putting into practice their own pet theories upon moral and intellectual education;

the Government can do nothing but mischief by thus meddling with persons who do not shirk their moral obligations, and it has no right to say to any individual, "I can rear your child better than you can; give it to me." But when persons endeavour to shirk those moral obligations the case is different. With respect to all those children who are quite neglected by their natural guardians, or who have lost them by death, the State may not improperly consider itself to stand *in loco parentis;* and, so far from such a course being any infringement of individual liberty, the disregard of its responsibilities towards orphans and neglected children must be held to be culpable carelessness on the part of the State. That Parliament has not disclaimed this responsibility is proved by the reference already made to the Industrial Schools Act.

It may be objected that if such a system were in operation, parents, in order to relieve themselves of the trouble and expense of bringing up their children, would simply neglect them, and thus throw upon the State the burden of supporting them. No doubt it would have that tendency, but it is one against which preventive measures may very easily be taken, as I shall hereafter show.

§ 9. We have next to consider the question of expense; and for this purpose it will be necessary to know how many children would come under the operation of the system—a number not easily to be determined, but, by making certain assumptions, we may approximate to it. In the first place let us assume that all the idle and neglected children

of whom I have spoken become either paupers or criminals; this will, of course, not be the case, but others will become pauper or criminal who made a tolerable start in life, and this excess will probably roughly balance the deficiency. Now the average number of convicted persons at the present time is, as we have already seen, about 10,700; the number of paupers in England and Wales on January 1, 1887, was 817,700;[1] the number of criminals at large, known to the police, is about 35,000:[2]

Paupers	817,700
Convicted criminals	10,700
Habitual criminals at large	35,000
Total	863,400

The average age of these persons will be about 30, and the average death-rate between the ages of 15 and 30 is about 8 per 1,000, therefore we must add 7,000 to allow for deaths, making approximately 870,000. This is probably a minimum limit.

We may estimate the number in another way. It is a tolerably safe assumption that children of the class we are considering, many of whom have already committed a breach of the law at twelve years of age and even less, habitually shirk attendance at school. Now the "estimated number of children of the class usually found in elementary schools" between the ages of 10 and 15 is 2,575,736,[3] and the number actually on the

[1] "Statistical Abstract," 1887, p. 209.

[2] "Judicial Statistics."

[3] Report of Inspector of Reformatory and Industrial Schools.

registers of annual grant schools is 1,535,273; difference, 1,040,463—a number which differs by only 130,000 from that which we have previously obtained, and probably 1,000,000 will not be very wide of the mark.

Now the type of school to which these children would be sent, should be of the character of those which are known as industrial schools; and in these the average cost of maintenance of boys and girls per head, including all charges, ought not to exceed £15 17s. 6d. Consequently the cost of maintaining 1,000,000 would be £15,894,000

At the present time nearly one-tenth of the cost of the industrial schools is covered by private subscriptions and legacies, and surely it is not too much to expect that, if the system were extended as here indicated, rich benevolent people, who are seeking for good objects upon which to exercise their charity, will come forward in yet greater numbers to assist; and that such private effort might suffice at least to wipe off the odd £894,000.

Parents also are now required to contribute to the maintenance of their children in reformatory and industrial schools, but the levying of this contribution should be far more stringently carried out; even after making allowance for orphans and children whose parents cannot be discovered, at least one-tenth of the amount required should be obtained from this source. If this were done, £13,500,000 would be the sum left to be accounted for.

Now the whole argument for the adoption of this system, and the sole justification for it, is that it

would practically break up the criminal class by cutting off the supply at the source, that it would at least halve the annual commitments of adults to prison, and would tend to diminish the number of paupers; and as far as this can be proved by figures it has been done. If any one disputes the validity of the reasoning it is useless for him to proceed further, but by those who will admit its force it must now be granted, for the sake of further argument, that those results will actually follow from the adoption of the system.

The total number, then, of the criminal classes at large, known to the police, including suspects, is 35,227. These men live by plundering the public; they do no honest work to speak of, and whether in prison or out of it they live at the expense of the State. Suppose that on an average they cost £25 a year each, then if, by judicious treatment of them when young, their number is permanently reduced to one-fourth its present amount, there is a saving to the State of nearly £700,000. Further, the cost of local prisons and of criminal prosecutions is about £379,000, and of convict prisons, after deducting the value of convict labour, about £200,000: and these might be made to disappear entirely by making prisons self-supporting, which certainly can and ought to be done. From the three last-mentioned sources, therefore, there would be a saving of £1,279,000, which, being set against the original sum to be paid, leaves £12,221,000.

Again, the number of paupers would be considerably diminished; but the present Poor Law,

and the whole system of relief, is so rotten, and even injurious, that if it were absolutely abolished, and nothing substituted for it, a balance of advantage would accrue to the State. This proposition needs no argument here in its support, for it has been firmly established by several able writers, foremost among whom is Mr. Herbert Spencer; while recently Mr. Francis Peek, in a thoughtful little book entitled "Social Wreckage," has re-demonstrated the worse than uselessness of our Poor Law; and from his position on the Metropolitan School Board and the Howard Association, this last-named gentleman is well qualified to express an opinion on the subject. The repeal of the Poor Law should, therefore, form a part of our new system,[1] by which £8,300,000 would be saved to the taxpayers; and the nett amount to come out of their pockets on account of the children will thus be £3,921,000. It may, however, be objected, even by those who see clearly what mischief is wrought by the Poor Law, that were that law repealed, the saving which would result would not have been effected by the establishment of industrial schools, and could not, therefore, legitimately be placed as a set-off against the cost of them. I do not press this point. But, anyhow, it is a known fact that pauperism is hereditary, and that children who are brought up in workhouses invariably turn out badly, becoming either paupers or criminals; consequently, if all such destitute and orphan children as are now brought up in workhouses, together with all children of the same class found

[1] See chap. viii. § 2.

wandering in the streets and slums, were properly educated at industrial schools, and on their discharge placed in some suitable situation, all connection with their former haunts and associates being cut, there can be no doubt that the permanent pauper population would at once be greatly decreased. Further, these children, who would in their turn naturally become the parents of pauper children, will, if properly cared for, rear an honest and industrious offspring, and thus effects, reacting upon causes, and becoming causes in their turn, will from generation to generation reduce the number of destitute children to be tended by the State. We might fairly estimate an annual saving on these two accounts amounting to £4,000,000. And surely a nation which is willing to spend four millions annually on the intellectual education of its poor children, and has been willing to waste over eight millions on a rotten system of poor relief, will not shrink from the expenditure of eight millions with an object the most important of all—the *moral education* of its poor children, and the eradication of an infectious disease from the body politic.

§ 10. It must be borne in mind, moreover, that in preventing a thousand children from becoming criminal, we have done much more than relieve the State from the expense of their support and the terror of their unforeseen attacks: we have presented the State with a thousand honest producers, able to bear their share of the common expenditure, and to contribute to the country's wealth; and we have removed a thousand centres from which,

by precept and example, fresh vice may spread. The state of the case is, therefore, not fairly represented by the mere setting against original outlay of the saving which results from a decrease in the number of criminals and paupers; there remains an unseen but very real advantage, which will more than cover the eight millions in cash which has gone out of the pockets of the citizens; not spent, however, but well invested.

CHAPTER VI.

DETAILS CONNECTED WITH THE MORAL EDUCATION OF CHILDREN.

"How is it that we are always so ready to conjure up the worst imaginable evils when any new proposal is offered to us, and always draw some picture of abuses and horrors when we begin to think of any great change, as if there were no abuses and horrors which called for the change?"—Dr. JESSOP, *Nineteenth Century*, vol. xix. p. 519.

§ 1. WHENEVER any new scheme is propounded it is always easy for objectors to raise difficulties on points of detail; and many plans for affecting social improvements, which have at length been put into practice after much opposition, have proved most successful, although they have previously been pronounced impossible by a number of confident critics. But the scope of human ingenuity and human determination is almost unlimited; and if a sufficient number of thoughtful men have been convinced that a scheme is in principle sound, and may reasonably be expected to work for good, difficulties of detail will quickly disappear. It is, therefore, my present object to endeavour to win assent to a principle, knowing that if this object is attained, points of detail will certainly be afterwards arranged, and that if it

should not be attained, a minute discussion now of details will be time wasted. There are, however, as a rule, certain more important, and even vital, questions of detail, which it is incumbent on the advocate of a new or revived scheme to treat of to an extent sufficient to forestall obvious objections, and make out a case for the consideration of his proposals.

§ 2. Now the most obvious objection to such an attempt at the wholesale moral education of the children of the streets as has been suggested in the previous chapter, and one which was actually made when the first Youthful Offenders Bill was brought before Parliament, is this, that if you give to children who are neglected by their parents the benefits of education, moral, intellectual and industrial, of wholesome food and healthy lodging, you behave unfairly to those who are willing to make sacrifices in order to discharge their parental responsibilities, you tempt the idle and unprincipled to shirk those responsibilities, and you remove a salutary check upon the too rapid increase of population. These objections are all sound, and must be met; and this can easily be done. Means must be adopted for placing the negligent in the harder position, and for putting a premium upon a proper attention on the part of parents to the mental and bodily welfare of their children. This may be effected by rigidly enforcing the rule that parents must contribute to the State education of their children exactly as much as the education and rearing of the children would cost them at home;

and if it be proved that the parent really has not the means of doing this, so large a proportion of the whole must be collected as will be decidedly irksome. Negligent parents will thus be placed at a disadvantage, for, in addition to having to pay for the maintenance of their children, they will lose any money which the children might have made in some situation or trade, and the assistance which they might have rendered at home; and instead of being anxious to throw their responsibilities on to the State, parents will be more careful than now to pay at least as much attention to the proper rearing of their children as will secure them from coming under the control of the State.

Something is now done in this direction in the case of children sent to reformatory and industrial schools, but not nearly enough. In the north of England, however, at any rate, on the first passing of the Acts, the importance of the principle was fully recognized, and the following letter from J. Dunne, Chief Constable of Newcastle, August 16, 1856, to the Hon. Secretary of the National Reformatory Union, is evidence in favour of its efficacy:

"Sir,—As I hold the appointment from the Secretary of State for the Home Department to proceed, under the Acts of Parliament, 18 and 19 Vic. c. 87, and 17 and 18 Vic. c. 86, with the view of enforcing parental responsibility in connection with the children confined in the reformatory establishments of the north of England, I shall be most happy to supply you with any

information which I can give in connection therewith; and perhaps I may be permitted to say, that I know, from my own personal knowledge and observation, that, since parental responsibility has been enforced in the district, under the directions of the Secretary of State, the number of juvenile criminals in the custody of the police has decreased one-half. I know that many of the parents, who heretofore were in the habit of sending their children into the streets for the purpose of stealing, begging, and plunder, have quite discontinued that practice, and several of the children so used and brought up as theives and mendicants, are now at some of the free schools of the town, others are at work, and thereby obtain an honest livelihood; and so far as I can ascertain, they seem to be thoroughly altered, and appear likely to become good and honest members of society. . . . I attribute, in a great measure, this salutary change to the effects arising, in many respects, from the establishment of reformatory schools; but I have more particularly found that greater advantages have emanated from these institutions since the parents of the children confined in them have been made to pay contributions to their maintenance, for it appears beyond doubt that the effect of the latter has been to induce the parents of other young criminals to withdraw them from the streets, and instead of using them for the purposes of crime, they seem to take an interest in their welfare." [1]

[1] "Repression of Crime," p. 358. HILL.

If, as there is every reason to believe, the assumption by the State of the right to deal with neglected children, coupled with the enforcement of a sufficient pecuniary contribution from the parent, had the effect of making parents more willing to take proper care of their children, the number at which we arrived in the last chapter, namely, one million, would be much diminished, and consequently the expense of educating these children would be less than we estimated it.

§ 3. Another objection may be made. It may be said that a child might be brought before a magistrate, and prove, on inquiry, to be sufficiently well cared for, and consequently be discharged; that not long afterwards the same child might be brought up again, and again discharged, and that this might occur repeatedly, causing a waste of time and money, and an inconvenience to respectable people. I think such a thing would not be likely to occur if a special staff of men, carefully selected, were to be organized for this special duty; they would not need to be very numerous, and if each man were appointed to a particular district he would soon get to recognize all the children in his district, and would not be likely to take the same child twice. There would also be another great advantage in the fact that such a plan would take the matter out of the hands of the police. At present the education of a child in an industrial school is looked upon as a criminal process, and is felt to involve some disgrace. It is most important that everything which tends to produce such a feeling should be

swept away, for self-respect is one of the most important factors which tend to keep a man in the path of virtue; in our treatment of youth in such schools as are here spoken of, the cultivation of self-respect must be one of our chief objects, still more must we be careful to avoid doing anything which may have the effect of weakening it.

Mr. Ed. Shepherd, Governor of Wakefield House of Correction for over eighteen years, in the course of his examination by the Select Committee on Prison Discipline in 1850, being asked the question (2,307), "Do you think the mere fact of a boy having become a criminal, and being treated as such, has an injurious effect upon his mind, inasmuch as it leads him to regard himself as belonging to the criminal class, and therefore, to a certain degree, out of the pale of society?" replied, "I have no doubt that that has a great influence with regard to the majority of boys who come to prison"; and very many persons have expressed the same opinion.

Therefore industrial schools must be disassociated completely from all ideas of criminality, of punishment, of anything that suggests disgrace; it would be better that they should be removed from the control of the Home Office, and placed under that of the Education Department, as has been suggested by Lord Norton, and that the police should have no part in the execution of any Act which might be passed for the purpose we are now discussing. Lord Norton has clearly recognized[1] the fact that committal to an industrial

[1] *Nineteenth Century*, January, 1887.

school is at present felt to involve some disgrace, and his suggestion that such schools should be placed under the control of the Education Department is good so far as it goes, but it will never be sufficient so long as it is generally necessary for a child to commit a technical "crime" in order to qualify for admission to one of these schools.

§ 4. A certain class of schools, to which the name Industrial Schools may very properly be given, must be set aside for the reception of children who have not yet broken the law, but are in danger of being led to do so, and there must be nothing to suggest that detention at one of them in any way means punishment or involves the slightest disgrace; every care must be taken to make it clear that their object is education simply and solely. A second class of schools which may well enough be known as Reformatory Schools must be appointed for the reception of boys who do not appear to have become hardened in vice, but who have broken the law; such boys must *on no account* be sent to prison first, and no boy, who is not so hardened in vice as to seem likely to corrupt the other inmates of the reformatory, must be sent to prison at all. Every one who has studied the subject is emphatic about this, and Mr. Edwin Waugh[1] gives, from his own experience, a typical case illustrating the baneful effect of this practice:

"A quick-witted, cast-eyed, tall boy of sixteen, returned from gaol less damaged than any of the ex-prisoners it has been my fortune to know.

[1] "Gaol Cradle," p. 131.

In him a disposition, always easeful and kindly, survived 'six weeks with hard labour' in an altogether exceptional manner. From the day on which his name was struck off the register of his school, up to the day on which it was inscribed on the register of the gaol, his occupation had been that of all poor, idle boys — 'hobjobbing about.' His crime was stealing. The very day of imprisonment he was compelled to work, and he needed no compulsion. With a will he stitched at the appointed shoe; if his work was clumsy, it was the fault of muscles dead with idleness; honestly he applied awl and needle, and cast many a thought on the future prosperity of the family. Thirteen weeks gone, he left the gaol, and unaided started hopefully on an industrious life. How delusive his hope, all who know anything of efforts for ex-prisoners' employ can too well conjecture, and the victim himself soon learnt. Accompanied by his mother, he tried to get work at shoemakers' shops, then tried to bring it to his home, innocently resolving that should he get anything to do, he would try to borrow some tools to do it with; but the fatal 'gaol' kept tools from his house and him from a shop."

But gaol inflicts greater injuries upon the youth who has to endure it than this which has been illustrated by Mr. Waugh. Most important of all is loss of self-respect and a sense of degradation, which will make the committal of a second crime far more easy; and a feeling of desperation, coupled with resentment against authority and against a law which has visited with such frightful harsh-

ness a mere piece of boyish mischief, or some act that was only the result of youthful thoughtlessness or ignorance, will go a long way towards the complete ruin of a character which perhaps only required a little judicious training.

Mr. Charles Lister in a letter to *The Manchester Guardian*, dated September 21, 1887, wrote: "With an experience extending over twenty-five years, and after conferring with many governors of prisons, I am satisfied that nothing is so calculated to entirely ruin a youth, or first offender, as to sentence him to a term of imprisonment, however short. The associations he forms in gaol, and the part he is compelled to take there, nay, the very insight of a prison, though only for seven or fourteen days, or a month, effectually blunt all his better feelings, renders him callous as to the future, and almost invariably causes him ultimately to become a confirmed criminal."

Again, gaol loses more than half its terrors when it has been once experienced; dread of the unknown, which always exerts a powerful influence over ignorant minds, has a salutary effect in keeping the children of the streets from bringing themselves under the notice of a policeman; but this salutary restraint is enormously weakened by the actual experience of a month in gaol where familiarity has bred contempt; and the longer we can hold over the head of the youthful offender the vague terror of an unendured imprisonment the better.

§ 5. If it should seem to a magistrate before whom a boy has been brought that his nature has

become so far morally diseased that there is serious risk of his infecting other boys if he were to be sent to a reformatory school, probably the best course to adopt would be to order him a number of strokes with the birch-rod. With regard to the advisability of flogging adults there is much difference of opinion, but I think those who have had experience of youthful offenders are practically unanimous that the birch-rod is highly efficacious; it should, however, not be resorted to so long as reformation seems practicable by gentler methods. When a boy has been two or three times birched and still continues in his evil courses, nothing will remain but to send him to prison.

§ 6. There has recently been some doubt expressed as to the efficacy of reformatory schools, and one or two mutinies which have broken out in them have been referred to as a proof of the unreformed character of the inmates.

No doubt some are much better managed than others; however excellent a system man may devise for dealing in any way with human beings, if the working of the system is entrusted to an injudicious person, it is foredoomed to failure. This will at once be admitted by all who have had any experience of a public school, and have seen that the same boys who in one class are quiet and attentive, in another are unruly and careless; a fact which can only be explained by supposing that the master of the orderly class knows how to manage boys, while the other master does not. Similarly, if a reformatory is presided over by a man who does not possess the requisite qualifica-

tions, it is likely enough that the system will be a failure, and that mutinies among the boys may take place.

But in addition to this there are in the present working of the system weak points which have already been adverted to: these schools are too penal in their character; boys far advanced in depravity are mingled with others comparatively innocent; and most boys are not taken in hand until well-started on a career of vice; all which things militate against the success of the reformatory system, but would be obviated by an amendment of the system and its further extension in the direction already pointed out in the Youthful Offenders Act.

Let us, however, even grant that the Government inspectors are seriously partial, that their reports of the efficiency of reformatory and industrial schools are too favourable, that the good results said to be produced by them are greatly over-estimated. This will prove nothing but the truth of a statement which I have just made, namely, that in schools of this kind nothing is of so much importance as the character of those who preside over them; for we know that under good management astonishing transformations have been effected by agencies of this kind. The great success of the endeavours of M. Demetz at Mettray, is well attested, and, I think, undenied; in England we have Dr. Barnardo, Father Nugent, and others, of whom the former, by his own exertions, has built up a number of homes for the training of outcast boys and girls, which have

been productive of the greatest good, over 6,000 children having been rescued from ruin by their means.

The success of M. Demetz and of Dr. Barnardo has been largely owing to the fact that they have endeavoured to make their institutions as much like "home" as possible, giving to the children under their care that wholesome family life which does so much to ingrain habits of rectitude into the characters of the children of the upper classes, and the want of which is so ruinous to the characters of the children of the streets; this, with the absence of all suggestion of disgrace or ignominy, will account to a considerable extent for the success of these agencies; and if the industrial schools of the future could be formed upon these models, with the advantage in respect of funds which the State has over private individuals, not the most captious critic should be able to pick a hole in them.

Of course it may be said that private endeavour, even crippled by limited means, is always superior to State interference, though aided by almost unlimited wealth; and there is much truth in this. But how many English people will agree to the proposition that as a State we ought not to deal with criminals at all? and if people are practically unanimous that crime must be dealt with by the State, then consistency requires us to give the State a free hand, and not to ruin a system by a half-hearted application of it, and by restricting State interference with individuals for the object of eradicating crime within certain limits, to

make such interference as we do allow quite useless.

At the same time, the more we can limit State control without damage to the system adopted the better; and, perhaps, it would be advisable that men like Dr. Barnardo should be encouraged to prosecute a work for which they are peculiarly fitted by a generous subsidy from the State, payment being proportionate to results, rather than that the State should have absolute control of such schools; of course there would be dangers to be guarded against, and great care and discrimination would have to be exercised by the minister under whose supervision these schools were placed; and the authority of Government would have to be applied to the collection from parents of a sufficient proportion of the expense of their child's education and rearing.

§ 7. A complete reformation should also be made in the present practice of bringing up orphan and destitute children in workhouses, for children so brought up nearly always turn out badly; if they do not become criminal they remain paupers, and are a burden upon the State for the whole of their lives. Mr. Francis Peek in "Social Wreckage" has given sufficient evidence of this to satisfy any one; and has stated many strong arguments in favour of the practice of boarding-out such children. When old enough they should be sent to industrial schools.

§ 8. If this system, which is even now sanctioned by law, were fully and vigorously carried out, and if parents were compelled to contribute a due

proportion of the cost of the State education of their neglected children, poor children would probably be so much better cared for that the number coming under State control would fall far short of that which we have anticipated, and when we consider what is implied by the conversion of even 500,000 idlers and depredators into industrious and honest citizens, we must admit that such a result is worth some pains and gives us a large margin for expenditure, since the sums of money saved to the State by it would be enormous. But the enforcement of sufficient payments by parents is a *sine qua non;* and if it should really prove that the collection of such payments is quite impracticable, the system must be given up; for nothing can justify us in giving to negligent and dishonest parents an advantage over thrifty and conscientious ones. If this practical difficulty can be surmounted, and with sufficient determination I am sure it can, no other objection can be raised against the sufficient employment of a method whose partial and imperfect application has been proved to have wrought so much good.

CHAPTER VII.

ON THE PREVENTION OF DRUNKENNESS.

"And as for *drunkenness*, you'll never bind it
By all the laws the strictest lawyer pleads."
—BYRON (*Slightly altered*).

§ 1. NEXT after the presence of evil example, and the absence of proper training in youth, drink has been found to be the most effective cause of crime; and if these two causes could be entirely removed the amount of crime would probably shrink to less than 20 per cent. its present figure. It is not, therefore, surprising that the drink-question is such a burning question at the present moment. A remedy is believed to have been found, namely, Local Option; and as this principle has now been officially adopted as part of the Liberal programme, and the carrying of it into effect being, therefore, merely a question of time, we shall soon be able to test its efficiency by experience; consequently, it seems rather superfluous to say much about it. Still, a few words with regard to it may not be out of place here, and even a superficial discussion of the drink-question would be incomplete without some reference to it.

§ 2. A law of this character has been objected to by some on the ground that it is very unjust to prevent sober persons from buying beer because some other persons get drunk; and to the reminder that the majority of people in any given place will have it in their own power to prohibit or to allow the sale of intoxicating liquors, they rejoin that the majority have no right to bind the minority in such a matter. It is clear that the rights of majorities are not unlimited; for example, it would not now be tolerated that a majority should impose upon the minority some particular form of religion, with the imposition of penalties should any one refuse to conform to it. If, then, the rights of majorities are not unlimited, what forms their limit? Some will say expediency; and, of course, if it were not expected that the measure known as Local Option would work a great reformation in the drinking habits of the people, it would not have obtained much support. So that, granting expediency to be a sufficient justification for the coercion of a minority, we have to inquire whether the expectation that it will be expedient is well founded.

§ 3. Our aim must, of course, be to abolish excessive drinking entirely, and so long as we are short of attaining this result we must not rest satisfied while any possible plan remains untried. Local Option, though it may diminish drinking to a greater or less extent, cannot possibly abolish it. For, in the first place, since the prohibition of the sale of drink will be optional, we cannot suppose that it will be universally enforced, and the Act

will therefore be a dead letter so far as concerns those towns which are not willing to accept it; thus the operation of the measure can at best be but partial, though it is impossible to tell yet how far this will be the case. Again, even in the places where it is strictly enforced, its efficiency will be far from absolute: the ingenuity of those who are determined to sell intoxicating liquors, assisted by the craftiness of those who are determined to get drink somehow, will succeed in eluding the vigilance of the authorities in England as they have done elsewhere. It will, indeed, be far easier for vendors of spirituous liquors to evade such a law than it is for smugglers to introduce contraband articles into the country, and we know how ingenious these latter people are in forming schemes by which to hoodwink the custom-house officers; but they have difficulties to encounter to which the difficulties in the way of selling alcoholic liquors secretly are mere trifles. The people mostly affected will be poor, sober people who send out now and then for a quart or so of beer or stout to drink with their midday meal, but the resolute drunkard will find means of providing himself with drink which such people would never resort to. This is not mere prophesying without knowledge, because similar measures have been actually tried in various countries. Mr. Grant Allen, for instance, thus gives his personal experience of the working of the Scott (Local Option) Law in Upper Canada: [1]

"As regards the general drinking public, how-

[1] *Pall Mall Gazette*, Feb., 1887.

ever, the universal testimony of all with whom I conversed, and of my own eyes, largely exerted upon the phenomena, willy nilly, was simply this —that there was somewhat less drinking than formerly, but a great deal more besotted drunkenness. Every day or two excursion steamers and excursion trains brought in crowds of people from the surrounding villages and the back country to Kingston, apparently for no other purpose on earth than to get drunk and then go home again. And get drunk they did without any doubt—drunk to a man in immense phalanxes. On such occasions the whole town was sometimes given over bodily to a vast orgie, a saturnalia of unobstructed and undeterred drunkenness. Nobody seemed inclined to interfere; the police were powerless. 'It's the Scot Act,' they said, with a tolerant shrug, when one spoke to them about the nuisance; 'you can't prevent excursionists going to the saloons and having a square drink now and then when they can get it.' In the days before the Act these people would have gone alone nightly to the bar of the local tavern in their own village, and have drunk on the average as much as was good for them, with perhaps occasionally a trifle over. But on the excursions they came accompanied by their wives and daughters, their sweethearts and their mothers; and, though the women seldom took anything—female drunkenness not being fashionable in the States of Canada—they went home at night in company with their male friends, who were, every one of them, more or less intoxicated. This surely is

not a desirable state of things for the public generally. On one occasion I saw an excursion steamer come back to the village of Gananoque with six or seven hundred people on board, and every man was distinctly, to the naked eye, the worse for liquor. On Orangeman's Day, and at other great gala seasons, the entire male population of the country seemed to reel about the streets *en bloc* in a high state of vinous exhilaration. Altogether it was quite clear that if the poorer people did not get liquor so regularly and frequently as they did before, they got it at longer intervals and in larger quantities, and with far worse consequences both to themselves and to the morals and comfort of their women-folk and children. One opinion was everywhere expressed by unprejudiced observers—'The Scott Act is a total failure.' Illicit whisky-shops also existed in abundance, and did a roaring trade at all the recognized picnicking places and popular resorts. These shops were of course known more or less to the inspectors, and sometimes visited, and the liquor confiscated; but in the intervals they were very good business. I have seen excursionists return from one of these picnicking places, within the county where the Act was in force, bearing in their faces, speech, and gait, unmistakable traces of having imbibed something stronger than water. The law does not effect its purpose; it only alters the place and time of sale, and substitutes spasmodic drunken orgies for moderate or slightly immoderate drinking. . . . I had intended to say something about other experiences in the United

States, but space prevents, and I shall only add the testimony of the Rev. Dr. Leonard Bacon (an unimpeachable witness) as to the non-prohibitory effects of prohibition in Maine itself—the parent of liquor laws—which exactly coincides with my own observation. Dr. Bacon spent an hour at Portland in the City Liquor Agency—the licensed safety-valve for that part of Maine—where the community itself turns purveyor of spirits 'not to be drunk on the premises;' and he saw many persons served with whisky whom 'a conscientious licensee' would have been amply justified in refusing to supply; 'and the only application I saw refused,' he says, 'was that of a grave, elderly man (evidently a member of the American Board of Missions then in session) who came in doubled up with colic, and, having paid for a dose of brandy, begged for a glass in which to take it, but was told that it was against the law.' Dr. Bacon's paper in last month's *Forum*, the New York *Nineteenth Century*, ought to be read by all advocates of Local Option. His observation quite coincides with my own — that prohibition does not and cannot prohibit, but only changes drinkers into drunkards."

These statements are so exactly what, with our knowledge of humanity, we should expect, that we cannot doubt the accuracy of them; and they are corroborated by the evidence of other people with regard to the effect of Local Option laws in other places. For instance, here is a report of the working of a Sunday prohibition law in Scotland;[1] "The

[1] *Weekly Dispatch*, May 27, 1888.

shocking disclosures made before the Poor Law Board of the City of Edinburgh do not go to prove that repressive liquor laws improve the morals of the people. The Scotch law, as we all know, prohibits the sale of liquor on Sunday. The result is that on that day the poor people go to the druggist for their drink instead of to the publican. But the intoxicating substances sold in druggists' shops are too dear for a poor man to buy—with one exception, *i.e.*, methylated spirits. The poor, accordingly, began to buy and consume this most nauseous and fatal of alcoholic poisons, and gradually a queer kind of artificial appetite was created for it. Among certain classes in Edinburgh methylated spirits is now the favourite beverage on week-days as well as Sundays, and is preferred even to the choicest and oldest brands of such historic mountain stills as 'Long John' or Glenlivet. The result is that in Edinburgh drunkenness assumes a terribly lurid form. The drunkard of the gutter is either a comatose animal or a raving and furious maniac, utterly beyond control. We have long been aware that Sunday closing in Scotland had led to the use of cheap alcoholic poisons. But we always believed that it did so only in individual cases, and that these were so few that the great benefit which the Forbes Mackenzie Act conferred on the community at large was more than a fair offset to its evils. But the disclosures relating to the growth of methylated spirit drinking in Scotland necessarily tend to modify that opinion very seriously." It is no doubt perfectly true

that in proportion as you make it difficult to obtain liquor you diminish the amount of liquor drunk, but even granting that in any given place where Local Option is established, drunkenness is diminished by 25 per cent. of its original amount, would this be a result with which we should rest satisfied? We ought not to be satisfied with such a result, and yet, judging from the reports which have been made by impartial persons on the subject of prohibitory legislation in practice in various places, we cannot expect a more favourable result than this. When we also take into consideration the improbability that prohibition of the sale of alcoholic liquors will be universally enforced, we are bound to be dissatisfied with such a measure until we have exhausted our ingenuity in the attempt to devise a better one.

The advocates of Local Option or of prohibition will, of course, reply to adverse criticism, by pointing to certain places where the system appears to have had a very considerable measure of success; for instance, Sweden and the town of Gothenburg. This argument would be good against any one who utterly denied all usefulness to such a system; but I am willing to admit that to remove temptation and to make drink more difficult to procure is bound to produce a good effect. Such a course is good so far as it goes, but in addition to the men who drink simply because they cannot pass the public-house door without entering, there are those who are possessed by a craving for alcohol and will employ the utmost ingenuity to obtain it. So long as such persons exist, the combined

ingenuity of those who are willing to supply and of those who are determined to procure, will certainly evade the law. Let the English people, if they like, regulate and restrict the sale of spirituous liquors, but let them not think that drunkenness will thereby be absolutely abolished, and that no further steps need to be taken. We must not rest until one of two conclusions has been established, namely, either that the approximately complete abolition of drunkenness is impossible, or that by certain specified means it can be accomplished.

§ 4. At present drunkenness *per se* is not a criminal offence, and no notice is taken of drunken men and women in the streets unless they make themselves obnoxious to other persons; if, however, besides being drunk they are disorderly or violent, they bring themselves into the power of the law. The punishment for this offence is imprisonment. The fatuity of those who have made and of those who preserve unchanged our criminal code, which shows itself chiefly in an immovable belief in prison's magical capability of regenerating mankind and checking the commission of crimes, amazes us most of all when it is applied to the treatment of drunkards. To imagine that a month's imprisonment, even many times renewed, will cure a confirmed drunkard is quite childish. Any physician could have taught our legislators this elementary fact, and now experience is dinning it into their ears; but to the voice of theory and to the voice of practice they are equally deaf. The Rev. Mr. Horsley thus gives his experience:[1]

[1] "Jottings from Jail," p. 35.

"I knew a woman who, during 1880, suffered no less than nine separate imprisonments of a month each for being drunk and disorderly. And many a poor creature really longs for a period of restraint and abstinence that would give some chance of physical improvement. Often have I heard: 'What is the use of giving me a month? it will only be the same thing over again!' or, 'It is cruel to be always letting me out only that I may return; why can't the magistrate give me time in prison to get straight?' or, 'Why can't the Government or somebody keep me here till I am cured?' Again, '4,391 men and 8,946 women have been in prison more than ten times' for being drunk and disorderly."

Here is a case which was reported in *The Echo*, November 14, 1887: "Margaret Cain, 48, a wretched-looking woman, who has been convicted some two hundred and thirty times, was charged at the Thames Police Court to-day with being drunk, disorderly, and using obscene language; Constable 254 H proceeded to give evidence, when the defendant exclaimed: 'Oh, shut up! Give me a month. That is always what Lushington gives me. Look sharp about it.' Mr. Lushington: 'As I have told you before, I will keep you from drink as long as possible. One month's hard labour.' Defendant: 'I told you what was coming.'" Now, it is perfectly certain that this woman would not be out of prison long before she returned to receive her two hundred and thirty-first conviction for the same offence; and the same farce is repeated at the law-courts almost

every day, though no doubt the case just given is an unusually bad one.

The legislature, in not making simple drunkenness an offence, has rested upon the ground that the law is not to interfere with a man's actions until he begins to injure some other person; and I suppose the month's imprisonment, which is the penalty for disorderly behaviour consequent upon drunkenness, is really only intended as a punishment, to warn individuals that they must respect the persons and property of others. But when the individual in question committed the offence he was not master of his actions, and is no more responsible than a madman or a person who is delirious. So that really, though not nominally, he is being punished for getting drunk. Here comes in the inconsistency. In one man drunkenness is no offence, in another man, on account of certain circumstances not within his own control, it is an offence. The whole question turns upon this point, whether drunkards are or are not responsible for their indulgence; in other words, whether drunkenness is a vice or a disease. If it is a vice, and if indulgence in it has led to the injury of an inoffensive citizen, then it is itself punishable, and not the injury of which it has accidentally been the cause. There is no harm in firing off a gun under certain circumstances, but if a man fires a gun in a crowded thoroughfare, even if he hits no one, he is justly liable to punishment for endangering the lives of other people. Similarly, if drunkenness is a vice and is dangerous to others, it is in itself punishable.

§ 5. But many authorities of weight are now beginning to hold the opinion that drunkenness is a disease. Of these Dr. Norman Kerr, President of the Society for the Study and Cure of Inebriety, is among the best known, and is recognized in the medical profession as an authority on the physical aspect of drunkenness. This gentleman was interviewed by a representative of *The Pall Mall Gazette*, and the following is a report of the interview :[1]

"Dr. Kerr: I think the physical aspect of inebriety has not been fully recognized either by the State or by the temperance or religious world in this country. In America, on the other hand, Dr. Benjamin Rush, a hundred years ago, distinctly taught that inebriety was a disease, and ought to be treated in special hospitals. In America there are now a large number of such institutions, many of them largely supported at the public charge by the various States in which they are situated. In some States a considerable part of the receipts from licences go to the support of these homes. In addition to that the magistrates have the power of giving persons convicted of being drunk the alternative of being treated at one of these homes instead of going to prison.

"And which do they generally prefer?—As many prefer the prisons as the homes.

"That does not say much for the homes.—On the contrary it does.

"How do you make that out?—Because they know they will be cured of drunkenness if they go

[1] *Pall Mall Gazette*, Dec. 20, 1887.

to the homes, and it is because some of them do not want to be cured that they prefer to go to prison.

"And the treatment in these American homes. How does it differ from the treatment in English ones?—The treatment in all genuine and intelligently conducted homes for inebriates is much the same. But, I may tell you, there are homes and homes. Some are mere commercial speculations, without any attempt at cure or reformation, indulgence in liquor being winked at, and even encouraged in certain cases. Then there is a second class of homes, both in America and England, which may be called in popular phraseology purely "faith-cure" homes, where the physical conditions of the inebriates are entirely ignored, and the only means used are moral and religious influences. The first class are not genuine at all; the second are genuine in the sense of being honest and well-intentioned, although the treatment is defective. Then there is the third class, which is honest and, at the same time, intelligent, because in this class both the physical and moral aspects of drunkenness are recognized. In this class the bodily disease is dealt with by appropriate medical and hygienic treatment directed to the cure or alleviation of the particular state of each patient, and to building up healthy brain and nerve tissue. Moral and religious influences are at the same time employed to strengthen the self-control, the loss of which is, perhaps, the most difficult thing we have to cope with in dipsomania Indeed, considerable emphasis is laid on the moral

and religious influences, because of their elevating and purifying effect on the depravity of inebriates in whom, in the diseased state, selfishness, lying, and deceit are generally met with.

"Where is there such a home in England?—The Dalrymple Home at Rickmansworth. It is, indeed, the only one licensed under the Habitual Drunkards Act, conducted without pecuniary profit to the proprietary, and publishing its records in scientific form.

"But has not the Habitual Drunkards Act been a failure?—Not quite. Although imperfect, it has yet done some good. For example, eighteen gentlemen have voluntarily entered this home for the full period of twelve months each.

"Don't you find that few people give their consent to entering?—Yes. The ordeal of declaring oneself an habitual drunkard before two justices of the peace is most formidable, especially to ladies. But in America, and in some of our colonies, patients can enter on a simple agreement, and once they are in the home, the conductor has the power to detain them, abuses being guarded against by frequent inspection.

"And the practical results of the treatment in these homes?—In all genuine and intelligently conducted homes, like the Dalrymple Home, one-third of the patients have been permanently cured.

"Then you consider, Dr. Kerr, that drunkenness is really a disease?—Undoubtedly. In a very large number of cases as clearly a disease as gout, or rheumatism, or insanity.

"How comes this disease generally?—Through

certain physical degenerations of body and brain, which may be inherited or may be acquired.

"Do you mean that a craving for alcohol is often inherited, just as gout or cancer is?—Perhaps that is hardly the correct way to state the facts. The disease of inebriety, apart from the act of drunkenness, consists either in an unhealthful craving for, or an unhealthful impulse to, intoxication. In some cases the taste for alcohol is inherited, but in the majority of cases a physical tendency to intoxication is inherited, which tendency, on the application of an exciting cause, such as a glass of liquor, leads to an outburst of drunkenness, even in cases where people hate the taste of the intoxicant itself.

"Do you really mean to say that there are people who hate the taste of liquor and yet drink to excess?—Yes; I have met very many of them.

"If they hate the taste, why do they drink?—Because overpowered by a diseased impulse or craving.

"You mean that people who hate the intoxicating agent yet crave for the intoxicated condition which it produces?—Precisely; that is just what I do mean.

"How do you account for that?—Because of a condition of pathological unrest, or a diseased and overpowering mental and physical uneasiness which is impossible to describe, but which demands relief even at the price of adding to the trouble.

"What is your remedy?—Absolute and unconditional abstinence from all intoxicants whatever under all circumstances.

"What? Even at the Communion would you prohibit wine?—Yes; fermented wine. Intoxicants are so dangerous to many reformed drunkards and also to total abstainers who have inherited the disease of inebriety. Many distressing cases of relapse have occurred from a sacramental intoxicant.

"Dr. Norman Kerr, who, together with Dr. B. W. Richardson, is one of the honorary consulting physicians to the Dalrymple Home at Rickmansworth, then permitted the writer to visit that establishment, which he found to be a country mansion called 'The Cedars,' standing on a terrace thirty feet above the river Colne, which flows through five acres of charming grounds belonging to the place. A theatre, billiard-room, reading-room, tennis-lawn, quoit and bowling-alley, gymnasium, workshops, and skating-rink—all belonging to the house, which has accommodation for twenty patients—showed that amusements were not forgotten as part of the treatment, the result of which may be summed up in the verdict of the Government Inspector as contained in his last report: 'The success of this retreat is very marked.' The Dalrymple Home is really a scientific experiment, on which the future treatment of inebriety in England will largely depend, as Dr. Crothers, editor of the American *Quarterly Journal of Inebriety*, has pointed out. It is, therefore, interesting to notice that its records indicate an intimate connection between drunkenness and disease. For instance, out of 103 cases treated there the habit of

drunkenness had been caused in 49 cases by injuries to the nerves, head, or spine. In 44 cases some complaint or disease was present, dyspepsia claiming the largest number of victims, and insanity coming next; while in 43 cases hereditary tendency to inebriety had been traced, and in 59 cases no family history at all was obtainable. By far the largest number of the patients were described as 'gentlemen of no occupation,' but only in eight out of the whole 103 cases was 'want of employment' the exciting cause of the drunkenness, which in thirty cases was attributable to 'sociability,' in six to 'business temptation,' in nine to 'domestic trouble,' in eight to 'business and professional worry,' in one to 'over-study,' in two to 'overwork,' in one to 'sunstroke,' in one to 'fear of conscription,' in two to 'college life,' in one to 'colonial life,' and three to 'travelling.' So much for the statistics of the Dalrymple Home, to which may be added Dr. Kerr's opinion that changes of climate, loss of friends or fortune, sudden changes of surroundings, and shocks to the nervous system are among the things which sometimes cause sober people to become drunkards. The importance of Dr. Kerr's views need not be insisted upon, seeing that if they are right most of our temperance legislation must be wrong."

The fact that in a very large proportion of cases habitual drunkenness is demonstrably the result, directly or indirectly, of physiological disturbance, proves it to be a real disease or morbid symptom

in all those cases, and we may infer without violence to probability that it is so in every case. Several other homes in different parts of England have been founded besides the one just described, in some of which excellent results have been attained. Why all are not equally successful has been pointed out by Dr. Kerr in the interview quoted.

Probably the best course to adopt at present would be for the House of Commons to appoint a Commission to inquire into the working of the Habitual Drunkards Act of 1879. Each one of the homes founded under the provisions of the Act should be carefully inspected, the treatment employed in each and the results attained closely investigated; by which means knowledge would be secured of the most satisfactory method. Should the report of the Commission be favourable to the treatment of drunkards in practice at the best of these homes, two important questions would have to be considered—first, whether the number of such homes should be increased, and, if so, whether they had better be founded by Government, and kept entirely under Government control, like prisons; or whether private individuals should be encouraged to found such homes, and be assisted by Government grants, of which the amount would be regulated by the success of the institution; and, secondly, whether magistrates should have the power of committing persons to these homes against their will, no option being allowed to the individual in question.

§ 6. To give a man or a woman a month or

two months of imprisonment again and again is worse than futile, for it is wrong thus to waste public money in boarding and lodging a worthless man, who is finally discharged no better than he was when he entered the prison cell. If we cannot do better than this, we had better leave drunkards alone altogether. We must not be deluded by the shadow of a specious consistency into a real and grave inconsistency; grant that a man may harm himself as much as he pleases, and that the State has no right to hinder him from so doing, yet if it can be shown that the man's act endangers the lives or property of others, it must be considered an offence, and dealt with accordingly. Again, should it be admitted that drunkenness is a disease, and the conclusion deduced therefrom that we ought not to infringe individual liberty by compelling men to undergo a particular treatment with a view to their cure, even if they may not themselves approve of it, we may meet this objection by instancing the case of dangerous lunatics, which shows that the right is by no one denied to the State of dealing in the best possible manner with those who are equally incapable of judging for themselves as to what is good for them and of refraining from actions which may, or probably will, injure other persons. This description is no less applicable to confirmed drunkards than to lunatics, and for the same reason it ought to be in the power of a competent authority to commit them *nolentes volentes* to proper institutions until such time as they shall have been perfectly cured.

The questions, What is a confirmed drunkard? and To whom shall the power to commit them be given? are points of detail which may well enough be left for consideration until the principle just laid down has been generally accepted.

CHAPTER VIII.

ON THE TREATMENT OF ADULT CRIMINALS.

GENERAL PRINCIPLES.

"As fruits, ungrateful to the planter's care,
On savage stocks inserted learn to bear;
The surest virtues thus from passions shoot,
Wild nature's vigour working at the root.
What crops of wit and honesty appear
From spleen, from obstinacy, hate or fear!
See anger, zeal and fortitude supply;
Ev'n avarice, prudence; sloth, philosophy;
Nor virtue, male or female, can we name,
But what will grow on pride, or grow on shame."

—POPE. "Essay on Man," Ep. ii., ll. 181, et seq.

§ 1. WHEN we have radically reformed and largely extended our methods of dealing with destitute and neglected children; when we have abolished that pauper manufactory, the workhouse; when we have dealt thoroughly and rationally with the drink-question, it is probable, from statistics which have been given in former chapters, that the criminal classes will be broken up and the number of law-breakers greatly reduced. We cannot, however, anticipate that crime will thus be

absolutely abolished; for there will be some youths who will pass unreformed through our system of moral education; there will be drunkards who will relapse after undergoing the most enlightened treatment; there will be men who, having lived tolerably respectably in their youth, will succumb to temptation in their maturity: so that adult criminals will still have to be dealt with, and we shall be too sanguine if we expect their number to be reduced by the methods suggested in the foregoing chapters by more than 75 per cent. What then is to be done with the remaining 25 per cent.?

§ 2. We have found that the principle at present adopted, namely, the attempt to deter, is a false principle, and quite incapable of giving satisfactory results in practice. It is, therefore, our duty to endeavour to discover the true and perfect principle, which must be in conformity with the laws of nature and of political economy, which latter—however much some distinguished personages, irritated by its iron rule, may rail against it and revile political economists as the authors of the existence of such a "dismal science"—is a very real force, not invented by any man at all, punishing severely all who infringe its laws, and not to be evaded by the ostrich-like expedient of shutting one's eyes to it.

Now the following may be considered a law both of nature and of political economy which is fundamental to the problem we are endeavouring to solve: it is to the interest of a community that every individual who wishes to enjoy the advan-

tages of membership of the community should contribute something to its support, and every community which admits the claims of its members upon it for support in return for no adequate services rendered, recognizes a principle which is damaging to itself in proportion as it is put into practice, and, if carried out on a sufficiently large scale, *absolutely fatal.* It is self-evident that if all the inhabitants of a country were kept in idleness by the State, the State would soon be ruined; therefore, the rule may be laid down that no one is to expect to be supported by the State unless good and sufficient reasons can be given for his being so supported in preference to any other citizen whatever. Because if it is admitted that any citizen is entitled to State support who may choose to apply for it, the State stands in continual risk of destruction in the event of the whole population becoming lazy, and demanding, as a right, food, drink, and shelter. This extreme case is certainly never likely to arise; still, the recognition of its physical possibility shows us that it is both unjust to the industrious, and, to a greater or less extent, injurious to the State, that such a right should be admitted. Therefore, before any person is to be considered as entitled to food, drink, raiment, and lodging at the public expense he must show why he, more than any other citizen, can reasonably claim such a privilege.

Now, if a man, either in defending his country against enemies, or in perfecting some great invention which will save his country money and make it more wealthy and his fellow-citizens more com-

fortable, or in producing grand works of genius which will bring his country honour among the nations and afford intellectual enjoyment to his fellows, or even in labouring long and assiduously in the public civil service—if, I say, in doing any one of these things a man has well earned the gratitude of his country, it is a graceful thing for his fellow-citizens to show their gratitude and appreciation of his services by providing generously for his old age. Again, if people really think that their country is benefitted by keeping a king or queen and a number of princes and princesses, they will be consistent in allowing these individuals to live at the public expense, because they will be of opinion that they are getting some equivalent for their money. But supposing a man who has never rendered the State the slightest service should apply for subsistence, and when asked the grounds of his application, should reply, I am stupid and cannot learn a trade; or, I am a drunkard and no one will employ me; or, I am indolent and do not choose to work—surely every sensible community will reply, these are no recommendations: if we accept such grounds as valid we encourage idleness, drunkenness, and improvidence, we are acting unjustly to the sober, the industrious, the thrifty, and we are admitting a principle which may ruin us if there are in the community a large proportion of persons such as you; we must of course absolutely refuse such an absurd and impudent application. One would think that a people which, on the contrary, acceded to such a request must be in its dotage, and did not deserve

to survive; and yet this is precisely what the English people do by means of their Poor Law—a people which pride themselves upon being the most intelligent of all peoples; and no less than eight million pounds annually are spent in England in subsidizing worthless, drunken men and shameless women, and demoralizing the lower classes.

If any private person, having means, chooses to assist a deserving individual, who, through misfortune, has fallen into temporary distress, he acts in a most commendable way; or if a number of persons unite themselves into a society with the object of discovering and relieving such cases of undeserved destitution, and if they perform this work in a judicious and cautious manner they do a service to the State and to humanity. But it is not only no part of the State's business, but most injurious to it, to proclaim that every man who, for any cause, has fallen into want may demand subsistence as a right. The appalling mischief which is being daily wrought by our system of poor relief has been sufficiently exposed by writers upon that special subject, and there is no need for me to repeat what has been said.

§ 3. But if it is absurd that men who are simply idle or incapable should be kept at the public expense, still more amazing is it to find that in a highly civilized and intellectual community, men who have not merely not assisted, but even damaged, the community, are provided for months and sometimes years, with clothes, food, and lodging at the public expense. Why should a man

who has robbed, assaulted, or otherwise injured a fellow-citizen, be entitled to these privileges? It will of course be replied that he is also made to submit to certain disagreeables which more than counterbalance the advantages just referred to. No doubt; but that is not the point. It is right enough that he should have to submit to disagreeables, but it is not right that because when at liberty he was an expense to the State he should be kept in durance at a further expense. If it could be shown that such a course was necessary in order that the offender might be reformed we should have to acquiesce in it, but since it has been proved that although he is kept by the State, he is usually not reformed, we are bound to protest very strongly against such a waste of public money.

We may lay down this simple principle, that every man must support himself; and if he will not support himself in freedom, but endeavours to live upon others, then he must be made to support himself in prison: certainly the fact that he wishes to live in freedom at the expense of the community is no reason for keeping him at the expense of the community in prison.

§ 4. It has always been recognized that there are two ways in which criminals may be dealt with in order to keep them from further crime; one way is to deter them and the other is to reform them. Now, it has already been shown that the first of these methods neither has yielded, nor is likely to yield, satisfactory results, and that to the fact that hitherto it has been placed first,

must probably be ascribed our small success in dealing with crime. The second has only very occasionally had fair play, but in a few instances where a reformatory method pure and simple, uncramped by any inane attempts to deter, has had fair play, a very astonishing measure of success has resulted. In two different countries, inhabited by people of very dissimilar natures, the experiment has been made, and has demonstrated in each case that very few men are so bad as not to have some vague appreciation of the beauty of virtue, by working judiciously upon which a strengthening of their better, and a gradual atrophy of their worse, impulses may be effected.

In the year 1853 a pamphlet was published, entitled "Prison Discipline," by C. M. Obermaier, Governor of the Munich State Prison. Translated by M. Rehbann, with a Prefatory Notice by Alexander Baillie Cochrane. London: James Ridgway. In the preface referred to Mr. Baillie Cochrane says:

"While I was residing last year at Munich my attention was particularly invited to the system of prison discipline practised in the State prison, under the intellectual superintendence of M. Obermaier—a system, as explained to me, so opposed to all my preconceived notions and apparently founded on such Utopian ideas of the perfectibility of human nature, that it required the most minute investigation to satisfy me of the accuracy of my information.

"Some twenty years have elapsed since M. Obermaier first denounced the prison system

which prevailed in Germany. Unlike many reformers of the age, he did not rest contented with pointing out existing evils, but he lost no time in urging upon the attention of the government all those reforms which have since been carried out in different districts, and for the full development of which the State prison of Munich afforded the widest scope ; it is not surprising if, in the first instance, his suggestions were received as the aberrations of an amiable visionary, for he started a theory which many years since was received, even in this country, with doubt and mistrust—namely, that the worst of criminals will commonly be found possessed of some one good quality, and that a system of prison discipline, based rather on pity than harshness, and appealing to the nobler and not the brutal instincts of human nature, would tend to raise men's self-respect, and thus gradually work upon their moral qualities ; that it was at once wiser and a more humane policy to sympathize with the force of temptation to which the criminal had yielded, than to visit with undue severity its guilty consequences.

" When M. Obermaier first arrived at Munich, he found from 600 to 700 prisoners in the gaol, in the worst state of insubordination, and whose excesses, he was told, defied the harshest and most stringent discipline ; the prisoners were all chained together, and attached to each chain was an iron weight, which the strongest found difficulty in dragging along ; the guard consisted of about 100 soldiers, who did duty not only at the gates and around the walls, but also in the passages, and

even in the workshops and dormitories; and strangest of all protections against the possibility of an outbreak or individual evasion, twenty to thirty large savage dogs, of the bloodhound breed, were let loose at night in the passages and courts, to keep their watch and ward. According to his account the place was a perfect Pandemonium, comprising, within the limits of a few acres, the worst passions, the most slavish vices, and the most heartless tyranny.

"It was his work to purify this den of corruption, and he set gallantly to it. His first object, he told me, was to enlist the sympathies, and to win the confidence of some of the best of the men; afterwards to bring these men together, and, subsequently, so far as they were concerned, to relax the severity of the prison rules. These men, in their turn, exercised a very gradual, but very marked, influence over others until they formed a body willing to co-operate with him in his schemes of improvement. As the characters of these men became improved, their cheerfulness seemed to increase; as he lightened the weight of the chains on their limbs, so did the weight on their hearts appear to be removed. M. Obermaier admitted that the process was a long and painful one; but that the result is most satisfactory must be admitted by all those who have taken the trouble of visiting this remarkable establishment.

"Although all I had been told led me to anticipate a great relaxation of ordinary prison precautions, I certainly scarcely expected to see the prison gates wide open, without any sentinel at

the door, and a guard of only twenty men idling away their time in a guard-room off the entrance-hall ; from this hall two long corridors led right and left to the various offices and workshops. These workshops were of various dimensions, capable of holding from twenty to sixty men, none of the doors were provided with bolts and bars—the only security was an ordinary lock, and, as in most of the rooms the key was not turned, there was no obstacle to the men walking into the passage, and I have already observed that there were only twenty soldiers to prevent them stepping from the passages into the road. Over each workshop some of the prisoners with the best characters were appointed overseers, and M. Obermaier assured me, that if a prisoner ever transgressed a regulation, his companions generally told him, 'Es ist verboten' (it is forbidden), and it rarely happened that he did not yield to the opinion of his fellow-prisoners. Few of the men wore chains, and the chains, when worn, were so light that they produced no practical inconvenience.

"Within the prison walls every description of work is carried on ; the prisoners, divided into different gangs, and supplied with instruments and tools, make their own clothes, repair their own prison walls, and forge their own chains, producing various specimens of manufacture which are turned to most excellent account ; the result being that each prisoner, by occupation and industry, maintains himself ; the surplus of his earnings being given to him on his emancipation,

avoids his being parted with in a state of destitution—a very necessary and important consideration, as, from having something to fall back upon, he may be prevented resorting to those pernicious habits and propensities which had brought him within the sphere of the criminal code.

"There were discharged between the years 1843 and 1845, 298 prisoners, sentenced for various periods of from one to twenty years.

"Of these, 246 have been restored improved to society; those whose characters are doubtful, but have not been remanded for any criminal act, 26; again, under examination, 4; punished by the police, 6; remanded, 8; died, 8."

The other experiment of a similar character to which reference has been made was tried in Spain, at Valencia, by Colonel Don Manuel Montesinos. The public prison at Valencia during the government of this gentleman, which commenced in 1835, contained from 1,000 to 1,500 prisoners, it was of faulty construction and the classification of the prisoners was consequently very imperfectly carried out. The method of Colonel Montesinos, which was so successful that in 1856 the number of recommittals to the prison had been reduced from 30 and 35 per cent. to less than 1 per cent. per annum, is explained in a work, published in 1851, by G. A. Hoskins, Esq., entitled "Spain as it is."

The following details are taken by Mr. M. D. Hill,[1] from the above-named book, and from a pamphlet published in 1846 by Colonel Montesinos himself:

[1] "Repression of Crime," pp. 552–555.

"If the vices and passions of a southern people prevail in a place where, until the last few years, a strong government has not been enjoyed, it is greatly to the credit of the city of Valencia that it can boast of one of the best conducted prisons in Europe. This being one of the great social questions of the day, I made particular inquiries about it. There are a thousand prisoners, and in the whole establishment I did not see above three or four guardians to keep them in order. They say there are only a dozen old soldiers, and not a bar or a bolt that might not be easily broken, apparently not more fastenings than in any private house.

"The governor, a colonel in the army, has established military discipline, and the prisoners are divided into companies. The officers stand as stiff, when you pass, as soldiers presenting arms. The sergeants and inferior officers are all convicts, who, of course, are acquainted with the temper and disposition of their companions, and best able to manage them; and the prospect of advancement to higher grades is an inducement to all to behave well. When a convict enters he is asked what trade or employment he will work at or learn, and above forty are open to him, so that he has the means of devoting his time to any he knows, or, if ignorant of all, to one he feels an inclination for, or which he is aware will be useful to him when he is liberated. If he declines to work at any he is sent to the public works, or employed in carrying wood.

"The convicts are not allowed to talk to each

other during their work, but this rule does not seem to be very strictly enforced, and they may speak to their instructor, who is often one of themselves, and ask each other for tools or anything requisite for their work, and every night after prayers they are allowed to converse with each other for an hour.

"They were all most respectful in their demeanour, and certainly I never saw such a good-looking set of prisoners; useful occupation (and other considerate treatment) having apparently improved their countenances. The governor found it was impossible to induce the prisoners to work heartily without giving them an interest in their gains; but when once he had by this encouragement established industrious habits, it was more easy to correct their principles. Honour among thieves is really found here—the prisoners keeping the accounts, and no attempts made to deceive.

"A visitor expressing his doubt as to such feelings of honour existing among convicts, the governor asked the worst class in the prison—men sentenced to ten years—to select a messenger, and he gave him an onza to change in the city, which is such a labryinth of narrow streets, that escape was most easy. Great was his astonishment when the man returned with £3 6s. in small money."

These examples have not been given with the idea that they ought to be copied in the management of English prisons in every detail, but merely to show what results a reformatory system is capable

of yielding if judiciously carried out, and what a contrast it offers to the effect of deterrent systems, under which men, while in prison, plan villainies to be executed on their liberation.

Mr. George Clifton, when Governor of Portland Prison, also testified to the reformatory effect of interesting employment.[1] He said: "I think that the reformation of convicts depends upon the amount of work performed by the different trades. I never have any difficulty with men who are employed at trades; they hardly ever get a scratch of the pen against them, and they take a great interest in learning those trades; but it is the drudgery of the stone-dressing, at which hundreds must be employed, which is distasteful."

We have, then, arrived at these two principles—first, that no man who has not merited it by distinguished public service must be kept wholly, or in part, at the public cost; second, that a vicious man may, as a rule, be reformed, but that deterrents, more especially when there is a very fair chance of escaping detection, have little effect upon him.

§ 5. Now, of course, the object of those who have at heart the welfare of the State is to endeavour to bring about that every member of the community shall be in perfectly normal relationship with the other members: that each man and woman shall so act that happiness may come to him or her without injury to any other person; that no one shall aggrandize himself at the ex-

[1] "Penal Servitude Acts Commission, 1878." Report, vol. ii. p. 170.

pense of any one else; that every individual shall contribute something for the augmentation of the common prosperity. If any member of the body politic acts in a manner contrary to this, morbid relations are established, and the community suffers. Thus, when a large body of depredators maintain themselves at the expense of law-abiding persons, causing insecurity to lives and property, a disease exists which detracts from the comfort and prosperity of the whole body. Now, we wish to substitute for this morbid state of things one which shall be normal, or as nearly so as possible. To bring about a perfectly normal set of relationships it would be necessary to convert these depredators into producers, acting in harmony with all the other producers and consumers according to the laws of Social Economy. If we take each of these men, when we can catch him, and shut him up in a box by himself, absolutely cutting, for a lengthy space, every tie which binds him to society, and keep him thus, to any extent, at the public charge, we may have made a change for the better, but it is quite obvious to the most simple understanding that such a state of things is still far from normal. If it could be proved, however, that this were only a transition stage, and that in time a complete cure would be wrought thereby, we might acquiesce in it; but it has been proved that there is every probability of its permanency, consequently it becomes our duty to endeavour to discover a substitute for it. It is clear that to put men into prison at all is to institute morbid relations between one class of

men and the rest of the community; and if we could reform a bad man while leaving him still in perfectly free intercourse with his fellows we ought certainly to do so; but since this is impracticable, we must endeavour, in our treatment of him apart, to keep intact as far as possible the bonds which connected him with society, when at liberty, while cutting away all those morbid growths which rendered him a plague-spot in the social body.

Before he is allowed to consume he must produce; the value of his labour must, as far as possible, be determined by the influences which regulate the value of free labour; his mental faculties must not be impaired, nor his moral strength lessened by long confinement in a box by himself, but he must be taught to associate with others in a manner that may be advantageous for himself and for them, so that when he returns to the world the habits he thus acquires may enable him to fall naturally into his proper social position; and generally, so far as is practicable without interfering with our main object, namely, the reformation of the criminal, we must make the prisoner as little unlike a free man as possible. A more minute discussion of this point, and as to the manner in which the result indicated may be brought about will be better left until we come to treat of the details of prison management; and we may now pass on to the general question, whether prisons may be made remunerative instead of a burden on the State.

§ 6. In seeking a reply to this question we

are met by the encouraging fact that in other countries prisons *have* been made remunerative, and there is no very obvious reason why a similar success should not be possible in England. In Canada and America convict labour is let out to contractors in various branches of industry, among which the chief are brick-making, broom-making, and the manufacture of wooden utensils—a system which not only results in a profit to the State, but is also found to exercise a beneficial effect upon the minds of the prisoners.

In 1850 Mr. Charles Pearson, M.P. for Lambeth, presented to a committee appointed by the House of Commons a complete scheme for the similar utilization of convict labour—a scheme which he had worked out to the minutest details—and not only was he able to show that prisons might be made to yield a good profit, but he even brought before the committee a contractor of standing who declared himself willing to take from the Government a large piece of land and the labour of 1,000 convicts at a price which would more than repay the Government for all the expenses connected with the custody of the men. The report of the committee upon the plan runs thus:

"That this Committee does not feel justified, without longer time for the consideration of such extensive details, in attempting to pronounce a definite opinion upon the plan which has been submitted to them, with much ability and laudable exertion, by Mr. Pearson; but they consider that plan to be entitled to serious consideration by any

department of Her Majesty's Government to which the regulation of Prisons may be entrusted, and especially in connection with the recommendation for the establishment of District Prisons."[1]

Mr. Pearson also read to the committee an account of the *prison of Ghent*, prepared by Mr. Rawson, the Secretary of the Statistical Society. It was to this effect: "The Government formed, towards the end of 1820, a council for the regulation of civil and military prisons, which, after three years of continuous labour, succeeded in completing and introducing the new system into all the prisons, under which the condition of the prisoners is greatly ameliorated, at a very moderate expense to the State. The prisons at Ghent produce annually a clear income of £5,000. In those now referred to the inmates are principally employed in weaving linen, and in making shirts, pantaloons, and gaiters for the army and colonies. On entering the building there is heard a noise of looms and machinery, which causes the visitor to imagine himself in a large active manufactory, rather than in a gaol. About 350 weaving looms are in full work, which gives employment to 700 individuals; the other male prisoners are employed as spinners, winders, &c."

In reply to the question whether there was any note of the average period of confinement with regard to those prisoners, Mr. Pearson said: "There is not; but from notes I took at the time, my impression is that the average may be

[1] Report of the Select Committee on Prison Discipline, July, 1850, p. v.

a year, perhaps a little more; perhaps it may be eighteen months. Here is an account of the Belgian prisons in 1845. I obtained these facts when I was at the Congrès Penitentière at Brussels, in the year 1847, from Monsieur Duc Petiaux, an official party there connected with the prisons: 'The official memorial in support of the *projet de loi* upon the Belgian prisons, presented to the Chambers of Deputies on the 3rd of December, 1844, states that during the two years 1841 and 1842 the profit of the work of the prisoners in the five central prisons of that country had risen for one of those years to 149,600 francs, and for the other to 195,620 francs, after deducting the charges of administration and management.'"[1]

Mr. George Breakspear, superintendent of the tailoring department in the Coldbath Fields Prison, being examined by the same committee, stated that forty prisoners, nearly all novices, who worked at tailoring in the prison, made by their labour a net profit of £17 4s. 1¼d. per man per annum; and that an average of thirty-five men working in the shoemaker's shop earned £15 6s. each per annum. These men only worked 7½ hours a day, so that a larger profit could have been made if the prison regulations had allotted more time to labour.

Although nearly forty years have elapsed since Mr. Pearson demonstrated the possibility of rendering productive the labour of prisoners, for

[1] Report of the Select Committee on Prison Discipline, July, 1850, p. 518.

various reasons nothing substantial has been done with a view to the attainment of this most desirable end; and the Government local prisons alone cost the country upwards of £400,000 per annum. In the convict prisons, certainly, the labour of the prisoners is utilized, and, so far as it goes, the experiment has been followed by results sufficiently satisfactory to warrant further steps in the same direction. According to the Report of the Directors of Convict Prisons, for the year 1882–83,[1] the total expense of maintenance of the prisoners at Portsmouth was completely covered by the value of their labour; while at Portland the net annual cost of each prisoner was only 17s. 1d. These, however, were exceptional cases; and though in each one of the other convict prisons a certain deduction is made on account of convict labour, the net annual charge per prisoner varies from £4 5s. to £30.

§ 7. It has been stated that the value of the labour performed by convicts for the Admiralty is much over-estimated in the Government Returns, and that the cost of the prisons is therefore really greater than it appears to be. This is probably true, for at Portsmouth it is the custom to distribute the men into gangs of twenty or twenty-five for purposes of discipline, and seeing that it may well happen that twenty is too large a number of men to execute some given piece of work, it naturally follows that in order to keep the whole gang employed work of an unnecessary or profitless kind must, for the time being, be given

[1] Part i. appendix, p. xxxii.

to some of the men; but the value of every man's day's labour is estimated on the assumption that he has been occupied on useful work the whole time. Consequently it is probable that the expenses of Portsmouth Prison are not really quite covered by the produce of the convicts' labour, and that in the case of some of the other prisons the adverse balance is greater than it appears to be. Nevertheless, sufficient has been achieved to make success probable, and to encourage a further extension of the principle.

There are several reasons why the labour of convicts in the cases where it is at present utilized has not sufficed to pay all expenses connected with their maintenance. Of these the first is that prisoners will not work as hard as free men. It stands to reason, that when a man knows that, so long as he is not palpably indolent, the amount and quality of his day's work will not affect himself either advantageously or disadvantageously, he will have no incentive to taking pains. If a prisoner's work is grossly defective in quantity or quality, or both, he will lose his mark, which will entail a lengthening of his term; he will soon find by experience the exact standard of excellence which will be just sufficient to insure him his eight marks a day; and knowing that, by improving upon this, he will not only not ameliorate his own condition, but will, to some small extent, enrich that Government and that society to whom he considers he owes his misfortunes, he will very naturally refrain from exerting himself beyond the necessary point.

This inferiority of enforced, as compared with free, labour has frequently been remarked by those who have been in a position to observe closely the operations of convicts. The author of "Five Years' Penal Servitude" says:[1] "A convict's day's work will bear no comparison with that of an outdoor free man. What the outside gangs on the bogs may do I know not, but I always considered a prisoner's day's work—say, for instance, a blacksmith or a carpenter—not more than equal to one-half or two-thirds of that of a tradesman outside. Of course there is no heart in a slave's or a prisoner's labour. Every man does as little as he possibly can. So long as what he does will pass muster, and he gets his marks, it is all a man cares for." This ex-prisoner is able to speak only as to the value of convicts' indoor labour, or labour at handicrafts; but competent witnesses are forthcoming to give similar evidence upon the value of their labour out-of-doors. Mr. E. A. Bernays, superintending civil engineer at Chatham Dockyard, gave the following statement in evidence before the Penal Servitude Acts Commission. "I think that two convicts will do, in one free man on day-work, and that three convicts will do the work of a free man on piece-work." Mr. H. Wood, who filled a corresponding office at Portsmouth, also in evidence before the same Commission, expressed the opinion that, "taking the able-bodied class, he would assess three convicts as equal to two ordinary labourers, whilst in

[1] P. 348.

the light labour party he would take two convicts for one free man." Again, with regard to the value of prisoners' labour at handicrafts, the opinion of the writer already quoted is corroborated by a statement of Mr. T. W. Harris, steward and manufacturer at Brixton Prison, who, on being questioned as to the inferiority of prison, as compared with free, labour, replied: "I should say that it is something like 33 per cent. less. A man will not work in the prison unless he has some inducement; that is the fact of the matter." Of course the analogy between convict labour and slave labour is very close, both being compelled to work by the employment of force, whether moral or physical; neither enjoying the fruits of their own labour; both being driven to work for the benefit of those whom they consider their natural enemies; and both being cut off from all intercourse with t ir relatives and friends, and treated more like br animals than men—a group of conditions w eo must have a numbing effect upon the ns. al faculties, make the men dogged and qua and considerably lessen their value as ar v bour. The state of the case with e labour has thus been concisely put tuart Mill:[1] "It is a truism to assert labour extorted by fear of punishment is efficient and unproductive. It is true that in some circumstances human beings can be driven by the lash to attempt, and even to accomplish, things which they would not have undertaken for any payment which it could have been worth

[1] "Principles of Political Economy," bk. ii. cap. v. § 2.

while to an employer to offer them. . . . But after allowing the full value of these considerations, it remains certain that slavery is incompatible with any high state of the arts of life and any great efficiency of labour. . . . Hopeless slavery effectually brutifies the intellect; . . . and even the animal strength of the slave is, on an average, not half exerted. . . . The mildest form of slavery is certainly the condition of the serf, who is attached to the soil, supports himself from his allotment, and works a certain number of days in the week for his lord. Yet there is but one opinion on the extreme inefficiency of serf labour." Doubtless the condition of a convict, lightened as it is by a certain leaven of hope, is superior to that of a slave, who can expect nothing but a lifetime of the same monotonous hardship and toil; but when all deductions are made, the analogy between enforced work in captivity and enforced work in slavery is sufficiently close for the words of Mr. Mill to be applied almost equally well to the former and to the latter.

The conclusion to which we are brought by t consideration of the foregoing facts is tha order to get the full value of convict labour, men must have a personal interest in accomplishing as much work as possible in the most efficient manner.

Again, the cost of superintendence is much greater in the case of prisoners than in that of free men; not only must there be trades instructors and overseers, but also discipline officers to

see that no improper communications take place between the prisoners, and that none of the prison regulations are broken. Further, the prison regulations themselves sometimes interfere with the efficient performance of the industrial operations; as we have already seen to be the case on the public works at Portsmouth, where operations have had to be performed in an uneconomical manner, owing to the division of the convicts into gangs of not less than twenty or twenty-five men each. If by any means we could get rid of these drawbacks, without introducing any evils or impairing the necessary discipline, it is clear that the profit resulting from convict labour would be increased. Again, prisoners only labour on an average at the present time for rather more than $7\frac{1}{2}$ hours a day, so that, by lengthening the time, about 20 per cent. more work could be got out of them. We see, therefore, that if there should prove to be no objection to making certain alterations in the conditions which at present limit the labour of convicts, the Government prisons in which such labour is at present utilized might be made profitable instead of there being a smaller or larger debit balance each year.

Taking a mean of all the estimates which have been given of the value of convict labour, we may conclude that three convicts are equivalent to two free men; that is to say, if we could get from prisoners the full amount of labour of which they are capable, the value of their productions would be about 30 per cent. greater; but then it must be remembered that a certain loss will result owing

to the inexperience of newly-convicted men who have not previously worked at any trade or industrial occupation. This may partly be got over by putting such men to unskilled labour, choosing of course the dullest for such work, and upon the rest the loss will not be great, for experienced persons have stated that, as a rule, convicts are quick at learning handicrafts; still, some allowance must be made for this inexperience, so that probably we should not be justified in expecting, under the most favourable circumstances, a greater increase than 20 to 25 per cent. on the present value of convict labour. We will for the present leave the question of the expense of superintendence, and merely add to the above increase of 20 per cent. the further increase of 20 per cent. which would result from an extension of the hours of labour, making 40 per cent. in all.

Now, the gross total expenses of the English convict prisons for the year 1882–3 was £327,964, and the value of the convicts' labour was estimated at £211,012. But the male prison at Woking is largely used for the custody of invalids and lunatics, and the bulk of the prisoners there are of little value as labourers, so that it is not fair to take account of it in the present calculation; we will also exclude the female prisons at Woking and Fulham, the work done in which is of comparatively small value, but which might probably be made much more valuable by increasing the range of employments at which the women are made to work. Having made these deductions we get the following figures:

Gross cost of maintenance of able-bodied male prisoners in English convict prisons		£276,180
Present value of labour of the above prisoners	£201,660	
Add 40 per cent.	80,664	282,324
Estimated profit.....		£6,144

The result of this calculation gives us grounds for confidently asserting that English prisons may be made self-supporting.

§ 8. We have, therefore, established the following propositions: namely, that under a system of prison discipline, according to which prisoners are taught handicrafts and are employed in profitable labour, a feeling of self-respect, a sense of emulation, and a gradual humanizing of the brutal instincts may be produced, resulting in a complete reformation of all but a few of the most degraded of mankind; that for able-bodied men to be kept in idleness or occupied in useless labour at the expense of the State is the perpetuation of a social condition only one degree less abnormal than the existence of the same men as free depredators, and is totally opposed to a system of sound political economy; finally, that the labour of prisoners can be made profitable.

§ 9. To these strong arguments in favour of the utilization of prisoners as producers for the benefit of the community certain replies have been from time to time made. It has been said that the work done by malefactors ought not to be brought into competition with the work of free

men to the detriment of the latter. But let it be remembered that in a perfectly normal state of things—a state which it is the object of all our apparatus of criminal jurisprudence to bring about—these very men would be honest producers, competing with each other and with all who are occupied in profitable labour; and that, consequently, by making these men produce in prison we are only instituting a state of things which ought naturally to be in existence if there were no prisons at all. This *argumentum ad genus hominum* is now getting somewhat threadbare; it was urged long ago by the supporters of protective duties, and its fallacy demonstrated in that special case; but the proposition is a general one, that injury done to one particular class affords no pretext for refusing a measure which is for the common good. In fact, the injury inflicted upon the class is in such cases only superficial and temporary; for whatever benefits the community in general must indirectly and eventually prove advantageous to every particular class, and, indeed, to each individual. If it were possible to adopt some plan by which every citizen could get boots and shoes gratis, would the injury thus inflicted upon bootmakers justify its non-adoption? If so, the same reasoning must be logically applied to each single handicraft and trade, which would lead to this absurd result—that if a community could obtain every commodity for nothing, every class of producers, and therefore, practically, the whole community, would be ruined; and that consequently a community, which has either to purchase or to produce all its com-

modities, is in a more opulent condition than one in which each member can procure any article he may require for nothing!

The fact is, that the loss to society which results from the existence in its midst of a horde of beings, partly idle and partly aggressive, is many times greater than that which society would sustain, through certain of its constituent classes, by the conversion of these beings into industrious citizens; indeed, it can be asserted with confidence that in the latter case a greater profit than loss would, on the whole, ensue, especially when we consider that the commodities produced in prisons would be so small a proportion of the total quantity of similar commodities manufactured throughout the country, and imported into it, that the market could not be very sensibly affected. It is not found to be so in America; and Lieutenant-Colonel Jebb, Surveyor-general of Prisons, expressed the opinion in 1850 that the profitable labour of prisoners in English prisons would be so small a fraction as compared with the labour market, that it would not at all interfere with it.[1]

The replies to such objections to the utilization of prison labour were forcibly and clearly summed up by Sir John Bowring, in an address which he delivered in 1869 before the National Association for the Promotion of Social Science.[2] He said: "The most common fallacies urged against the extraction of pecuniary profit from the labour of

[1] Report of the Select Committee on Prison Discipline, 1850, p. 26.

[2] "Transactions," p. 247.

convicts are—first, that the work done in prison ought not to be brought into competition with the labour of the honest workman. But, if it be remembered that the convict, if out of prison and honestly employed, would be a far more formidable competitor than when employed in prison, and, farther, that the cost of maintenance of a convict to the public is far greater than that of the honest labourer to himself, it is certain that the honest labourer, being the master of his own arrangements, comes into the field of competition with advantages superior to those of the prisoner, and that the loss to the whole community is much greater in the case of prison labour than of the loss to the free labourer. Were it the case that prison labour tended to the lowering of prices, that would be an undoubted benefit to the consumer; but this lowering of prices could only be brought about at the public expense. The whole amount, however, of prison production can be but very trifling in the general market, and can but triflingly affect prices. Again, it is said, that to teach the prisoner a trade in prison is to make him, when he is dismissed from prison, a formidable rival to the honest man who has never been in prison. And why not? Had he remained among the ranks of the honest, and been taught an honest trade—a state of things which every one must acknowledge is much to be desired, because society is better off without criminals or crime than with them—it is clear the public interest would have been saved by his remaining out of prison. And if, thanks to prison discipline,

he can be placed in the position he might have occupied but for his offences, and instead of an idler, or sinner against the laws, he becomes a good citizen, a producer of wealth, a contributor to the public prosperity, who can deny that in his case a good work has been done?"

§ 10. It has also been objected that in the case of large numbers of prisoners the term for which they are sentenced is so short that they could not possibly become sufficiently proficient at any trade for their labour at it to become profitable. There are two ways of meeting this difficulty, both of which would be advantageously employed. The one is to put a certain number of the prisoners to unskilled labour, such as agricultural labour, in conformity with some such plan as that of Mr. Pearson; and the other is to sentence men for longer terms. A certain number of prisoners are already acquainted with some handicraft; for instance, it has been estimated that one in ten may be a professed shoemaker, and that one in twelve may be a professed tailor, and so on; with these there would clearly be no difficulty: a certain number of unskilled labourers would profitably be utilized, who would naturally be selected from the men with the shortest sentences. There would be a residue which, no doubt, under present conditions, could not all be employed profitably; but if the length of their term of imprisonment were increased they might be so employed.

Mr. William Gibbs, manufacturer and steward of Pentonville Prison, stated, in 1850,[1] that men

[1] Report of the Select Committee on Prison Discipline, p. 191.

who had previous to their conviction worked at no trade might generally become profitable in three months. I think that if the hours of prison labour were extended so as at least to equal those of free labour, the period required would be less than three months; however, it is certain in order to efficiently utilize the labour of such men the term of imprisonment should ordinarily be much longer than this; a change which is also to be desired on other grounds.

As a rule it will be impossible to very appreciably affect the character of a vicious man in so short a period as three months; *à fortiori* will it be absurd to expect to do so in two months or one month; it is only wasting public money to send the same man repeatedly to prison for short terms, as is the custom at present; and it would be a matter for astonishment that such a practice should continue to exist were not the slowness of the public to imbibe new ideas a well-known fact, an extension of the terms for which criminals are sentenced having long ago been advocated by the highest authorities. For instance, Mr. Charles Pearson, M.P., in the course of his examination before the Select Committee on Prison Discipline, in 1850, said:[1] "I have adopted the opinion which *every witness*[2] examined here, and which *every writer*[2] upon this subject adopts—that short imprisonments are bad, and that no sound system of prison discipline can be persevered in which does not contemplate an increased duration of sentences."

[1] Report, p. 479. [2] The italics are mine.

Mr. Pearson also made the following statement upon the same subject:[1] "As I hope that this Committee will arive at some practical result, I take leave to refer to the proceedings of the Committee of the House of Lords in the Session of 1847. I do so with more confidence because the references which I am about to make convey the short opinions in writing of Judges of England, Ireland, and Scotland, upon a question put to them by the orders of the Committee. The question sent round is, 'Does your Lordship consider that any reformation can be worked on offenders by a short imprisonment—as for three or even six months?' Mr. Justice Wightman, Mr. Baron Parke, Mr. Justice Patteson, Mr. Justice Maule, Mr. Baron Alderson, the Lord Justice General, the Lord Justice Clerk, Lord Mackenzie, Lord Cockburn, Lord Medwyn, Mr. Justice Crampton, Chief Justice Doherty, Mr. Justice Jackson, Chief Baron Richards, Lord Wood, Mr. Sergeant Adams, Mr. Hill, the Recorder of Birmingham, Mr. Bullock, the Judge of the Sheriff's Court, and various other persons to whom similar letters had been addressed, replied, that in their judgment, a less term than three or six months (most of them fixed it at six months) would fail to produce a reformatory effect upon the persons subjected to imprisonment for that period."

§ 11. But we shall be wrong in inferring that the scale of punishments now in vogue can be at all adequately reformed by simply increasing all penalties in some definite proportion, or by fixing

[1] Report, p. 503.

a minimum limit at six months; the problem is by no means so simple, for the existing scale is formed upon an entirely false principle, and some factors which should be of the first importance in fixing the term of imprisonment in any given case have been quite overlooked. Having been led to the conclusion that the only way to turn criminals into honest men is to reform them, and recognizing the fact that the habitual law-breaker is one who is morally diseased and requires to be cured by proper treatment, we see at once that our criminal code, as it stands at present, is absurdly irrational and must be simply revolutionized. For now, if a man, having gradually drifted into the criminal class, and having lived undetected for a considerable period at the public expense, is at length caught in the act of picking a pocket, he will get, perhaps, one month's imprisonment; at the end of which time he will fly back, like a piece of stretched elastic, to his old courses, will again and again find his way back to gaol, and eventually be safely landed for five years in a convict prison. Mr. George Clifton, Governor of Portland Prison, stated, in 1878, that out of a total of 1,177 men under his charge, then undergoing first sentences of penal servitude, 873 had previously had sentences of a summary nature or imprisonment, and that, in addition to these, there were 358 who had had former sentences of penal servitude.[1] Such men are criminals in the true sense of the word, and the figures given by Mr.

[1] Report of the Penal Servitude Acts Commission, vol. ii. p. 206.

Clifton prove that upon men of this class short sentences, especially of a deterrent character, have no appreciable effect.

On the other hand, a poor clerk, who has lived uprightly all his life, under the influence of some great temptation, embezzles some money, falsifies the books he has to keep, or forges his employer's name: he is soon detected; the publicity of his disgrace, the ignominy of a trial attended or read of by persons who have known and respected him, the sorrow, possibly, of a loved father or mother, the sense of degradation by which a dishonourable action must always be followed in those whose habits have previously been of an opposite character—all these, or even some of them, would give rise to such bitter emotions as alone to suffice to restrain many, if not most, such men from again committing a fault of a like character, and would make not a few shrink from the very thought of it as a burnt child from the fire. But on the top of all this anguish is piled, possibly, a sentence of five years' penal servitude, during which the offender, if young and not of strong moral fibre, runs some risk of becoming infected by association with vicious men, or hardened by the treatment which he will experience.

Now in the first of these supposed cases, as is inferable from such statistics as those just now quoted, and as any one who knows anything of professional thieves and men of that class could have foretold, the man will simply continue to return to prison at intervals for years; to give such a man a month is quite useless, he will

probably come to penal servitude at last, and it would be better for himself and for the country that he should have a sufficiently long imprisonment at first—in short, being morally diseased, he must be sent into the hospital for a sufficient length of time to admit of his being cured. In the second case the man was not morally diseased, but was suffering from temporary aberration; possibly the moral sense was not very strong in him, without his being in the slightest degree vicious or depraved; indeed, numbers of respectable men who die with a clear conscience might, if subjected to the same temptation, have succumbed in the same way. No lengthy curative treatment is required in this case, a short but sharp and unpleasant experience, coupled with the ignominy of the exposure, or even the latter alone, will ordinarily be effective in bracing up the man's moral nature to a sufficiently high pitch to keep him from similarly falling again. This is the class of convict which is *deterred* by imprisonment, to which reference has been made in chapter iii. § 4: it is such men who are only convicted once, and in their case three months or six months will be as efficacious as five years.

The distinction between sentences must be no longer based upon mere crimes committed, these are quite superficial, and are no reliable index to a man's real character. If our object is to get rid of criminals, and if the only means of doing this is to reform them, so soon as we catch one we must deal with him in no pettifogging way, but employ adequate means to really reform him; the

particular act which brought him within the power of the law is nothing when he has been in the habit of committing breaches of the law more or less grave from his youth up, until he chanced to be found out in the commission of this particular one. For such men must our reformatory system be devised, and it must be applied for a sufficient length of time to be effective; for the previously respectable man who in a weak moment has succumbed to temptation, must be reserved the short but sharp and deterrent sentence, which will brand him with ignominy and be a warning to him for a lifetime.

§ 12. It may, however, be objected that a judicial sentence is intended to deter not only the man who has committed a crime from offending again, but also others who may be exposed to similar temptation from offending in a similar way, and that a severe sentence of five years' penal servitude would be more likely to attain this end than a short imprisonment of six months. This must be largely a matter of opinion, but to me the objection appears to be groundless, and some reasons, which are not without considerable force, can be urged against it. Now, the deterrent effect of a sentence, in so far as it can have any, admittedly depends upon the severity of it; let us, therefore, consider what will be the consequences to a man, occupying the position I have indicated, who has been convicted of a dishonest action.

In the first place, he will picture to himself that all his acquaintance and his relatives, who have believed him to be an honourable man, will be

discussing his case, some pitying him, some disparaging him, some, perhaps, abusing him, and he will be covered with shame at the thought. He may have a wife, and possibly children, and the contemplation of the disgrace, and very likely ruin, that he has brought upon them, will be torture to him; then to appear in open court, to be tried before the curious gaze of many who have previously known him, will be a dreadful ordeal; finally, when he comes out of prison, and cannot, owing to a blemished reputation, find employment such as he had formerly engaged in, and sees himself driven to manual labour for a living, and that miserable compared with what he has been accustomed to, precarious at the best, and perhaps aggravated by the thought that he has dragged down with himself some who are most dear to him, the climax of his torment is reached; and he has suffered so intensely, quite irrespective of any judicial sentence, that the mere term of his imprisonment is trifling in comparison. The habitual criminal feels none of these things, and on that account a sentence of penal servitude must be less severe to him than one of six months' imprisonment to one who has previously been an honourable man; and for this latter the sum-total of the punishment is very slightly increased by prolonging the term of imprisonment.

Again, it is very doubtful whether such a man, before he does wrong, considers the length of imprisonment he is likely to get. Since the shame of the exposure and the other consequences of it

which have just been sketched are most to be dreaded by him, the question which he chiefly considers is whether he is likely to be detected or no; and this fear of detection may make many a man hesitate before he takes the fatal step. But hope springs eternal in the human breast, and therefore some unfortunates, being hard pressed, and in a state of desperation, or it may be overmastered by cupidity, trust to luck and their own wits and make the plunge; but the fact that their sentence, should they be detected, is likely to be five years or six months does not weigh with them, for they rely on escaping detection altogether.

The opinion here expressed is strongly supported by a statement made before the Penal Servitude Acts Commission of 1878,[1] by Mr. William Tallack, then Secretary of the Howard Association, who said: "The question of the antecedents of prisoners is one of the utmost importance. I was talking, not long ago, to an experienced prison official, and he said that he considered that society owed a very great debt of consideration to many of our criminals, more than society recognized. The antecedents, the temptations, the privation, the ignorance, the parental neglect . . . these antecedents are of such importance that they ought to be taken more into regard than they are in the sentences, especially the sentences to penal servitude; and I have one practical suggestion to make on that point, which is this—that whenever judges have before them prisoners

[1] Report, p. 226.

charged with offences for which they are liable to penal servitude, they should be requested . . . not to pass sentence immediately, but to let an interval of at least twenty-four hours elapse, during which period they should be provided, by some responsible officer, with a statement of the prisoner's antecedents and general character, and that those should be more considered than they are at present before passing sentence; for I do believe that for want of this reasonable and considerate regard to the antecedents of many of our prisoners, many of them find their way into our convict prisons where they ought not to be."

§ 13. The gravity of the crime must not, however, be absolutely disregarded, for it will be, to a certain extent, a clue to the man's character who committed it. There are men who would, in particular circumstances and in a particular state of mind, commit a forgery, who are incapable of murder or of any kind of violence. The fact that a man's record up to the time of his first conviction can be proved to be a clean one, certainly places him in a category very widely removed from that in which we class the habitual criminal; but in that category we may recognize a subordinate classification indicated by the nature of the crime committed. Even among those who have committed one single crime—murder, for instance—very marked distinctions must be recognized, as is even now done to some extent in our own judicial courts, where, leaving out of account the case of manslaughter, technical murderers are often not dealt with according to the strict letter of the

law, effect being given to a recommendation to mercy by the jury. Some countries carry out this principle further, making a legal distinction between murder of the first and murder of the second degree, &c.

Thus, while character is to have the first consideration in determining the severity of a judicial sentence, the one act which has brought a man under judicial observation must have its due weight as a datum, by the aid of which the man's character may be more accurately inferred. The questions whether a murder or other personal injury has been committed owing to an insufficiently restrained temper, or from a calculating spirit of revenge, or from cupidity, or from jealousy, or out of pure brutality, are very important ones, and must be given their proper weight when the penalty for the crime is being fixed. To say generally that every act which is at present called murder deserves death is a very crude statement; and the fact that up to now the taking of human life has been classified under only two main heads, manslaughter and murder, argues, as yet, a small development in us as a nation of the analytical faculty.

The mistake which the legislature has made has been the recognition solely of one datum as sufficient for the determination of a penalty, whereas it is with a man's whole character, so far as we can ascertain it, that we have to deal, and the one fact which has hitherto been all in all must simply take its proper place as one clue, no doubt often an important one, to assist us in this

investigation. For the sake of example let us suppose that three men are brought to trial under the following circumstances. All three are about the same age—thirty-five years; it is proved that they have previously led no worse lives than the average of people who die without ever standing in the dock; nothing worse than the peccadilloes to which our weak human natures are prone can be proved against them. Number One, however, has been unfortunate, he has made bad investments, has lived above his income, has borrowed money, and his creditors are pressing, he has a wife, and ruin stares them in the face; in desperation he borrows a sum of money from his employer without that employer's knowledge and consent, but, unluckily, before he could return the sum, which he honestly hoped to do, the deficiency is discovered, his loan is qualified by the ugly name of embezzlement, and he is prosecuted. Number Two starts in a position in life similar with Number One, but his life is by no means similar in its course, money seems to stick to his fingers, he speculates and is successful, but love of money has grown with the growth of his income, his expenditure is large, his avarice increases, his wealth does not accumulate fast enough, and he forges a cheque for a large amount. Number Three starts life in the same position as the former two, he lives moderately, is steady, obtains the confidence of his chief, earns a fair salary, and saves money; one day, while disputing with an acquaintance, he flies into a passion, strikes the man who has angered him upon the temple, and kills him with the blow.

Now, from all the facts which are known concerning the previous career of the three men, it might be impossible to infer much difference in their characters, but a consideration of the nature of the acts of which they are convicted will make it clear that they are fundamentally of different dispositions. The case of Number One has practically been considered in § 11; there is no evidence of vice or of a depraved nature; a short, deterrent sentence, possibly a month only, but the severity of which will partly be determined by what is learnt in evidence as to the amount of temptation to which the offender has been exposed, sometimes even a mere taking of sureties to be of good behaviour will meet the requirements of this case. But the commission of the crime of which Number Two has been guilty undoubtedly pre-supposes some perversion of the moral nature; it may be safely concluded that avarice and dishonesty, excessive egotism and lack of sympathy with the misfortunes of others, have taken tolerably firm root in the mind of a man who could calmly, when unspurred by need, thus defraud other men of the fruits of their honest labour. A sufficiently long sentence must therefore be given to enable a reformatory effect to be produced, and to admit of habits of self-restraint, self-denial, and frugality to be produced; and yet not so long a sentence as would now probably be given, for the position of this man is such that deterrent methods would not be without considerable effect upon him. Many men have impulses to evil; as Diderot has truly said, "Le cœur humain est tour

à tour un sanctuaire et un cloâcque," and even the very best of mankind must occasionally be disturbed by the promptings of those brutal and savage parts of their natures, which have come down even to us civilized beings like an heirloom from a remote ancestry. But such men do not respond to these savage impulses because they have learnt to command themselves, or their forbears have gradually done so and transmitted to their offspring the results of this great lesson: and thus it might very well be that another man, in an exactly similar situation with him whom we have called Number Two, might feel an equally strong impulse to the commission of the same wrong act, but, having his impulses under better control, might abstain therefrom ; many, again, are saved from sin by their desire to stand well with the world, and the self-restraint which perpetually results from this feeling becomes in time more or less habitual and really elevates the moral nature. An effect of this latter kind may be produced by deterrent methods upon the forger whose case we are considering, or upon any man who has done wrong under similar circumstances; the shame, and the irksomeness of imprisonment to one who has been accustomed to live luxuriously or even comfortably, would make such an impression upon his mind that, even were his real character quite unchanged, the remembrance of former unpleasant consequences might be sufficient to induce him to put a check upon his selfish impulses. In his case, too, the effects of the exposure would be more severe than even a

long imprisonment, so that probably the requisite reformatory and deterrent effect would be produced by a year's incarceration.

Number Three has been guilty of murder, and, according to our laws, has deserved death, which, if extenuating circumstances should appear, would be commuted to penal servitude for life; but many a man might lose his temper and strike as heavy a blow, and yet not kill nor even wound very severely the person struck; how, then, is it that of two men who have performed identical acts, one has merited death and the other possibly only a few months' imprisonment? Surely there is here some inconsistency. Without doubt there is; and it arises from the mistaken practice of basing penalties chiefly upon results, whereas the motive is much more important, and the offender's general character most important of all. There have been known instances of men who had been in the habit of giving way to temper, at length, in a blind fit of passion, inflicting some serious injury upon a friend, and then having been so overcome by sorrow and remorse as to have successfully undertaken the subjugation of their hasty temper; and thus a man who has committed murder under the circumstances supposed, might not only never again strike a fellow-creature, but might, owing to the bitter punishment of remorse, become even more temperate and self-restrained than many others who had never similarly lost their self-control. Now, if we could feel perfectly assured that any individual who has committed a murder is no

more likely to commit another than any other person, it would be unnecessary to confine him or to deal with him in any way whatever; but though a large proportion of the murderers of the class now considered would never commit a second murder, some might; and in the absence of any means of distinguishing these, a certain term of imprisonment must be given to all, which, according to a perfect system, should not be limited, but of indefinite length, to be determined by the after-behaviour of the convict. Scope should be given to him for the exercise of self-control, and a close watch kept upon his words and actions by a person possessed of the requisite tact, knowledge of human nature, and other qualifications, and as soon as it is reasonably certain that the man has obtained the mastery over himself, he ought to be discharged, in order that he may again fulfil the duties of a good citizen. Six months might in some cases be sufficient for this, in others two years or even more might be necessary.

These typical cases have been somewhat enlarged upon, that they might serve as examples of the manner in which it is proper that distinctions should be made between the treatment of those who, not being really vicious, commit what may be termed casual crimes, and those who are criminals by nature, in the true sense of the word. To entirely eradicate vicious habits of thought and act from the minds of these latter, and to supplant them by virtuous habits, will clearly demand in most cases a long period of

judicious treatment, and in some cases a lifetime will not suffice for the attainment of this result. If this view of the matter is correct, the sentences now given to the former of these two classes are often too long and never determined by just considerations, while those given to the latter are almost invariably much too short; and even if it can be said (and I do not think it can) that the first half of this proposition is merely matter of opinion, it cannot certainly be denied that the second half is the statement of a fact of which proofs have in a former section being given. [1]

§ 14. Here is a case which appeared in the evening papers in April, 1888: "David Miller is not exactly a customer after the publicans' own heart. When he entered the 'Sir Sidney Smith,' in Dock-street, Whitechapel, he was evidently inebriated, and the landlord thus very properly refused to serve him. This was enough. Off came his coat, and out went his fist in close proximity to a neighbour's face. In a moment he had assailed the landlord, and when that worthy endeavoured to eject him he kicked, and then tried to bite him. However, he was held under until P.C. 85 H arrived. P.C. 85 H soon had a taste of his violent quality in a blow in the eye, which blackened it. P.S. 33 H now came to the assistance of 85 H; three other constables followed 33 H. P.C. 461 H immediately received a kick on the thigh, which raised a bruise as big as the palm of his hand. At last Miller was got to the station, and while in the dock he, in the words

[1] § 10.

of one of his victims, 'landed 79 H full in the eye.' For all of which Mr. Saunders sentenced him at the Thames Court to four months' imprisonment."

Now it is quite conceivable that had one of the blows or kicks fallen upon a vital part, one of these policemen might have been killed; for a violent blow which, delivered upon some parts of the body would only cause a bruise, falling upon some other parts would cause death, either immediately or after sufferings more or less prolonged; from which considerations it follows that the event of a promiscuous encounter such as that just described, is entirely dependent upon chance. Consequently, two men may behave in precisely the same way, their actions may be identical in every respect, and yet for these actions one may be visited with death or penal servitude for life, while the other escapes with four months' imprisonment; and which of the two shall be hanged and which shall go free is a matter of pure luck! I say that a system from which such an illogical result as this can come must be rotten somewhere.

Most of those who have discussed the bearing of punishment upon the amount of crime, have held it to be of the first importance that a given conduct should infallibly be followed by a given penalty, and they have maintained that the certainty of this consequence would be a far more potent factor in diminishing crime than the severity of punishments.

Thus Mr. Matthew Davenport Hill [1] has written: "That crime will be repressed in proportion to

[1] "Repression of Crime," pp. 4–5.

the certainty of the detection and punishment of the criminal, is an obvious truth. And experience has at length taught us, that a certain punishment, though slight, is far more effectual to deter from crime, than the terror of the heaviest penalty that man can inflict when the chances of escape are numerous."

We are therefore driven to wonder that a method which has been designed to deter, should leave so much to pure chance, although competent authorities have declared that chance is fatal to deterrent methods. Even though we have been led to the conclusion that a reformatory system is the best, yet we would not reject such assistance as the deterrent action of penalties can afford, and on this ground alone would have to protest against a practice which so seriously vitiates the efficiency of an instrument in itself sufficiently weak; but chiefly we must condemn it because it is inconsistent, unjust, and opposed to fundamental principles.

David Miller is a drunkard and a brute. We have found that a few months' imprisonment are powerless to produce sobriety; and to expect to convert a brute to a human being in four months is obviously absurd. It is simply wronging the public to again turn loose upon them a wild and dangerous animal after it has once been safely secured, and should be as much an offence as if one of the keepers at the Zoological Gardens deliberately opened a cage-door and allowed a tiger to spring out into the midst of a crowd of people. There are prowling about many savage

brutes in human form, which from time to time make their appearance in the police-courts, and are relegated to cages for ridiculously short terms; and if, as is likely enough, one of these monsters, after having been once in the hands of the police, either when drunk or in a fit of passion, or out of pure brutality, should kill some one, the law is reponsible for that loss of life.

§ 15. The fact is that the sentences passed upon casual offenders, or first offenders, are usually as much too long as those passed upon true criminals—vicious men and women, and beasts in human shape—are too short. These two propositions cannot really be dissevered, for both are deduced from the same fundamental principle; they are either both true or both false, and if the truth of one be admitted the truth of the other is *ipso facto* admitted also. But the first has recently been partially recognized by the legislature itself, and the necessity for taking previous character into account has been admitted to such an extent as to make it impossible to consistently refuse assent to the truth of the principle in its full bearing upon the treatment of every class of criminals. I refer to the First Offenders Act which received the Royal assent on the 8th of September, 1887. This Act, after reciting that it is expedient to make provision for cases where the reformation of persons convicted of first offences may, by reason of the offender's youth or the trivial nature of the offence, be brought about without imprisonment, goes on to provide that the court may have regard to the youth, character, and antecedents of the

offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, and instead of sentencing him at once to any punishment may direct that he be released on entering into a recognizance, with or without sureties, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour.

In the case of first offenders, then, the legislature has decided that so much weight is to be attached to a man's previous character that it shall, if good, completely counterbalance the gravity of the particular offence; and, having once admitted the justice of this principle, it will be impossible to restrict it to a special case; it is certain that in time it must be extended so as to regulate all penalties inflicted by the law-courts in the manner suggested in the foregoing pages. It is greatly to be hoped that magistrates will take advantage of the option thus given them, and not allow so excellent an Act to become a dead letter. It may be well to give an instance which appeared in *The Morning Post*[1] of the way in which this Act works, from which we may see how a young man, who formerly might have been ruined for life, may now retrieve his character, and has still a chance of living an honourable and useful life.

"At Greenwich Police Court, yesterday, Sydney Herbert Francis, thirty years of age, clerk, was charged with absconding with £30 belonging to his employers, the Agricultural Association, whose

[1] September 22, 1887.

offices are in Creek Road, Deptford. Mr. Greening, the managing director, said that the prisoner had been a clerk in the service of the Association. A cheque of £30 was given to him by the cashier on August 5, and he cashed it, but never returned. After giving further details, Mr. Greening said that the Association did not wish to deal hardly with the prisoner. The prisoner pleaded guilty. Mr. Montagu Williams said he feared it would not be sufficient to deal with the prisoner under the First Offenders Act, and committed him for ten weeks with hard labour. Subsequently, Mr. Greening made an application to the magistrate to commute the sentence, saying that the Association would be satisfied if the prisoner were dealt with as the magistrate had hinted he had power to do. Mr. Montagu Williams said he would deal with the prisoner under the First Offenders Act, which was an excellent measure, as it gave persons who once offended a chance to retrieve their character. It was very difficult for a young man after being sent to prison to obtain another situation. He accepted the prisoner's own recognizances in £100 to come up for judgment if called upon."

But if good character is to be allowed entirely to outweigh a single offence in some cases, how can we consistently refuse to allow the consideration of it largely to mitigate the severity of sentences in other cases? and why should not an offence committed by a person of bad character be considered to require to be visited by a sentence of increased severity—even to the extent of giving,

in certain cases, very heavy sentences for comparatively trifling offences? The truth of the principle that character is the thing to be considered, having once been admitted and the principle partially applied, the extended application of it has become inevitable, and absolutely required by consistency.

§ 16. There is yet another, and entirely independent, reason for advocating the extension of terms of imprisonment in the case of really abandoned persons. In the course of our investigation into the causes of crime we found that heredity is a very important factor in the determination of every man's character. Now hereditarily acquired impulses, or instincts, as they may be called, are really habits acquired by a man's forbears and transmitted to their offspring in greater or less intensity: but there is no doubt that habits, whether acquired or inherited, can become much weakened from desuetude, and new habits may gradually be formed. These processes, however, are slow, and often demand considerable periods of time for their complete effection; in some instances, possibly, a lifetime is too short. If, therefore, the nature of a man's offence and what is known of his previous conduct prove that he has inherited habits of an immoral character, society is called upon for two strong reasons to keep him secluded for a tolerably lengthy period: of which reasons the first is—that such immoral habits may, by long and forced desuetude, become atrophied, and new and social habits formed by a proper treatment and the second—that he may

be prevented, while in a morally diseased condition, from begetting beings to whom his vicious habits may be transmitted. It being exceedingly probable that the bulk of the criminal classes are the descendants of criminals, and are what they are partly on account of inherited tendencies and partly owing to the unfavourable moral atmosphere in which their childhood is spent, the inference is that the numbers of criminals will not sensibly diminish until some remedy is applied which may be adequate to remove these two sources of disease. How the second may be dealt with has been indicated in chaps. v. and vi.; the force of the first will also be much lessened by those methods; and we now see that their effect may be supplemented by awarding to vicious men terms of imprisonment of such length as to leave them no opportunity of injuring the State by means of a vicious progeny.

§ 17. The difficulty is that it would be impossible for a judge to tell exactly how long a time would be requisite to produce the desired result in each particular case; so that some men might be released from prison still unreformed, while others would be kept there longer than necessary; and it has been proposed by many that the sentence of imprisonment should be more or less of an indefinite length, to be determined by the convict's behaviour in prison. Captain Maconochie, sometime Governor of Birmingham Prison, a man of large and enlightened views on prison management, proposed that a certain number of marks should be assigned for a given

quantity of labour, and that prisoners should be sentenced, not for a fixed term, but until they should have earned a certain number of marks, and that marks should be forfeited for bad conduct. Even in this case, however, though the plan is a great improvement upon our present system, there is necessarily a minimum term, namely, the shortest period in which the marks can be earned, which can be indefinitely lengthened by idleness or bad conduct, but which cannot be curtailed, even were it absolutely certain that any individual prisoner was really reformed when he had earned half the appointed number.

The theoretically perfect plan would be for convicts to be condemned to remain in prison until it should appear to certain competent persons in a position to closely observe the prisoners, that they were really reformed. The only question is whether such a system is really practicable. Fortunately, the experiment is being tried, and, so far, it appears to have been attended by a complete and well-merited success. The system is thus sketched by the Rev. J. W. Horsley:[1] "The last annual report of the New York Reformatory at Elmira is now to hand, and certainly its principles and practice are remarkable, and even unique. It is a prison for males between the ages of sixteen and thirty, with about 500 inmates, and has been in use some six years. It introduces features into criminal jurisprudence and treatment which are new not merely to New York, but to the world; and here we see in opera-

[1] "Jottings from Jail," p. 173.

tion what all prison reformers desire—the first step to classification ensured by sending the more youthful, venial, and susceptible prisoners to a separate establishment for peculiar treatment. But the chief novelty is in the principle which prompts the action and treatment by the State. A prison, they say at New York, exists not chiefly for punishment, nor even primarily for reformation, but for the protection of society from those who have been obnoxious or injurious to it, while that probability of noxiousness remains, and no longer. Hence an Act of 1887 takes from the courts the power of fixing or limiting the period of punishment, and sentences offenders simply to be detained in prison until it appears to the managers of Elmira Reformatory that they have so improved, intellectually and morally, that they may be let out on parole or ticket-of-leave for a probationary period of six months. A safeguard, however, against undue detention (which, of course, on these principles, might be life-long), is found in the clause that provides that no imprisonment shall exceed the maximum term provided by law for the crime for which the prisoner was convicted. These "indefinites," as they are called, can secure, by consistent and progressive good behaviour, a conditional release on parole in one year, and an absolute release in eighteen months, from the date of their admission, without regard to punishment or to the particular crime they have committed. And hereby it trades on that love of liberty which is next to love of life in strength among human motives. Let a young

burglar or post-office embezzler get his five years, and he knows he must "do" at least four of the five, and thereby he naturally falls into a heavy, unambitious, and dogged condition, that is careful only to avoid additional punishment, but has no incentive to moral and intellectual growth. At Elmira, however, he is made to feel, as he daily works out his own salvation or freedom, how profitable is virtue; and the mark system, which we use simply as a bribe to the abstention from ill-doing, is there, in an extended and improved form, productive of progressive well-doing in the three departments of industry, mental and moral culture, and renders unnecessary any punishment save in the the third or lowest grade, which never exceeds 15 per cent. of the whole." [1]

Further on [1] he says: "Passing from principles to details, it is interesting to notice that the average detention is sixteen months, though, under the old law, the minimum allotted to the offences of some of the prisoners was five, or even ten years, and that out of 1,205 treated in five years as 'indefinites,' only 37 are known to have relapsed into crime, and if half of those ultimately lost sight of be added, the number is only 121."

Those who have had the patience to accompany me thus far will perceive that this system is founded upon true principles; and that, like all those plans which spring from a knowledge of human nature, and treat men as human beings and not as brutes, such as the plans of Colonel

[1] "Jottings from Jail," p. 177.

Montesinos, M. Obermaier, Captain Crofton, and Captain Maconochie, it has been crowned with a success which effectually demonstrates the superiority of all such systems over our present deterrent methods, which, however, in spite of both *à priori* and *à posteriori* demonstration remain as a monument of the conservatism of the English people.

§ 18. It may, perhaps, be observed that if such a system as this came into operation in all our prisons, the functions of a judge would be almost entirely transferred to certain prison officials. Well, if this were so, it would not be a sufficient ground for objecting to the inauguration of a system which promises such excellent results. But, as a matter of fact, such would not be the case; for it would still be necessary that a man of acute understanding, of a logical mind, of impartial judgment, and imbued with a deep knowledge of the law, should preside over our courts of justice in order to see that the accused has fair play, and to sum up the pros and cons in a calm and unbiassed address to the jury at the termination of the case. Moreover, it is not proposed to leave absolutely to certain prison officials the determination of the length of a convict's detention, because, as has been pointed out in previous sections of this chapter,[1] a consideration of an offender's previous character will make it advisable that in some cases no imprisonment should be inflicted at all, in others a maximum of a few months only, while in the case of a really vicious and immoral

[1] See also on this point, cap. ix. § 7.

person a sentence of indefinite length must be pronounced; a proper determination of which will require, on the part of judges, certainly, no less thought and discrimination than now.

Then, against the adoption of the system of considering a man's character more than the actual offence for which he is charged, may be urged the objection, that it will often be difficult, and sometimes impossible, to discover what the offender's real character is, and that an immoral man might bring up as witnesses to character unprincipled persons who would perjure themselves. There will be no doubt a great difficulty on this account in some cases, and great caution and penetration on the part of the judge will be necessitated by it; but the difficulty is by no means so great as to be a real objection to the plan proposed. For in cases where the offender is being tried for the first time, and has previously occupied a respectable position in society, there will really be no difficulty at all; and when the first offender has lived among drunkards, thieves, beggars, and persons of that description, the counsel for the prosecution will surely not find it hard to bring forward evidence of the fact, and should no specific acts of immorality be proved against the prisoner, it may safely be taken that his character is shown by the company he kept; at any rate, the judge will probably be able to determine from such evidence whether the prisoner is a vicious man or not. There will, however, doubtless be cases in which it will be impossible to conclude with any certainty that the offender

has previously lived a moral life, while no trustworthy evidence of previous vice is forthcoming. In these cases the judge, using his discretion, might give the prisoner a definite, probably not lengthy, term, based partly upon the nature of the offence and partly upon what little he has been able to gather with certainty with regard to the prisoner's character. Should the offender's character really be bad, it will not be long before he commits a second offence, whereupon, his first being proved against him, he will be adjudged a person of bad character and sentenced accordingly.

§ 19. Reasoning and experience, therefore, seem both to point to this—that in assigning penalties, no less than in the method of carrying them out, our object must be, not to retaliate upon a man for the commission by him of some special act; not to be guided by a spirit of revenge; not to endeavour to terrify the culprit with the mistaken desire to make him an example to others, but with the actual result of lowering his self-respect and numbing his mental and moral faculties; rather must it be this—to go to the root of the evil, and deal with the offender's moral nature, and to prevent contamination of the hitherto innocent by keeping apart every immoral person who has come within the scope of the law, until there is good reason to believe that his discharge will be a benefit rather than an injury to the State. If the English people can only be persuaded to abandon the worse than useless system at present in vogue for the treatment of offenders, and if, by examining carefully all those schemes which have by far-

seeing men been either propounded or carried out in practice, selecting the best points of each, and learning by experience, they would formulate a great, humane, consistent, scientific, and natural scheme, the number of gaols might be immensely diminished, their cost reduced to nil, and a horde of creatures, who now prey upon society, causing a feeling of insecurity and large annual loss, converted into producers and contributors to the wealth and prosperity of our great Empire. Having, in past times, been so often the pioneer among the nations of magnificent social, and industrial undertakings, let us no longer placidly submit to this great blot upon the fair face of our social institutions, but show the world that we have discovered the secret of converting locusts and drones into ants and bees, by turning to the advantage of our State men, who, owing to neglect and improper treatment, were an impediment about the feet of our progress.

CHAPTER IX.

THE TREATMENT OF ADULT CRIMINALS

SOME DETAILS.

"To make vicious and abandoned people happy it has generally been supposed necessary *first* to made them virtuous. But why not reverse this order? Why not make them first *happy* and then virtuous? If happiness and virtue be *inseparable*, the end will as certainly be attained by one method as the other; and it is most undoubtedly much easier to contribute to the happiness and comfort of persons in a state of poverty and misery than, by admonitions and punishments, to improve their morals."—COUNT RUMFORD.

§ 1. HAVING established certain fundamental principles, it now becomes my duty to endeavour to found upon them the more important details of an improved system of prison discipline—a work requiring much circumspection, and upon which I enter with considerable diffidence, and with the preliminary declaration that the suggestions I am about to make are merely tentative, and designed to be a rough outline which may be revised and filled in by persons more competent to do so than myself.

The systems of prison discipline hitherto in

general operation may be classified under three main heads—the Solitary System—the Separate System—and the Silent Associated System; concerning the respective merits of which eager discussions have from time to time arisen. The object of all is the same—namely, to keep prisoners from communicating, and thus contaminating one another. The solitary system was never in favour in England; it has been tried in America, but though it certainly answers the purpose of preventing intercourse between prisoners, its effect upon the mind and health of those subjected to it, is exceedingly deleterious, of which fact an instance is given in the appendix.

There remain, therefore, the Separate and the Silent Systems, and it is upon the respective advantages of these two that opinion in England has been divided.

§ 2. Upon the general reformation of prison discipline after the disclosures of Howard, the separate system was the favourite, but it was found to be open to the same objection as the solitary system, though, of course, to a much less extent. Nevertheless, many persons of experience and high authority continued to advocate it on the ground that it is the only really efficacious method of preventing intercourse between prisoners, and for sentences of imprisonment for periods of one month up to two years, it is still more or less strictly in operation. In the Government convict prisons, however, with the exception of Pentonville and Millbank, the system has been discarded; and, indeed, it has several grave defects.

In 1850, Captain Donatus O'Brien, Director of Government Prisons, was examined before the the Select Committee on Prison Discipline, when the following interrogation took place:

"1530. [Sir J. Pakington]: I understood you to have said, in reply to a former question, that this system of passing the whole time in cells, with the exception of the time they are in chapel and at exercise, in your experience produces an injurious effect upon the health of the prisoners, after a period of six or nine months?—From that time a difference in their appearance is observable.

"1531. What difference do you mean?—They look whiter, and they lose muscular power; but I do not know that I am justified in going to the extent of saying that they actually lose health; they are not so robust as they all would be if out of prison.

"1536. When you used the expression that prisoner's lost tone, did you refer at all to the mental powers of the prisoners? No; yet I have no doubt that the mental powers are affected, more or less, by the physical condition of the men; but I can hardly say how far they are affected."

J. G. Perry, Esq., Inspector of Prisons, and Fellow of the College of Surgeons, in the course of his examination by the same Committee[1] expressed himself thus: "I think that if the separate system is pursued without great care and observation on the part of those who have to administer it, and for a long term, prisoners having a tendency to insanity will be more likely

[1] Report, p. 122.

to become insane. But I am not supported by my observation in saying so much as that. . . . The chief effect which I have observed from it has been the softening of the character, and the increased susceptibility of the prisoners—a susceptibility to impressions of all kinds. And that effect of it I consider to be a valuable preparation for the reception of the good impressions which are conveyed to them by the discipline of the prison. But, at the same time, it must be obvious that the susceptibility to good impressions must be accompanied also by a susceptibility to bad ones; and I think a man, discharged from a prison conducted on the separate system, and driven into association again with bad characters, would be more likely to be led into mischief in consequence of the increased susceptibility of his mind, notwithstanding the religious impressions which he had received in the prison, and the theoretical virtue, as I may call it, which he had imbibed there. I think he would not be able to stand against the arts of other persons of stronger mind so well as he had been before."

Mr. Pearson read an extract from a paper by Dr. Howe, of Boston, corroborating the opinion expressed by Mr. O'Brien: [1] "While in confinement the convicts are removed from temptation, and the simple diet and regular life of a prisoner lower the tone of their physical frame, and reduce the violence of their animal appetites and passions. In this condition they are more susceptible of

[1] Report, p. 143.

moral and religious impressions, and they will often become unaffectedly penitent. Those who have common sense will see that crime is poor policy, and form resolutions of amendment; those who are more imaginative will have their feeling wrought upon, and pass through what is called a religious conversion. But when they go out into the world, and are stimulated by excesses, then the dormant passions are aroused like wild beasts from their lair, and the first temptation often witnesses their fall. The exceptions to this are so rare that prison-keepers and persons most acquainted with convict life seldom have confidence in the reformation of adult criminals, and to a fearful extent their scepticism is well-founded."

A few more opinions may be quoted as to the effect of separate confinement upon the health of prisoners.

Captain J. R. Groves, Governor of Millbank Prison, on being asked the question:[1] "Do you find that the prisoners who are kept in separate confinement, and who, you say, are not in such separate confinement for more than five or six months, suffer at all, either in their health or in their minds, by such separate confinement?" replied, "Taking the mass of prisoners who are so subjected, I think they do; they suffer in both mind and body."

"2483. Although the average term is not more than five or six months?—Although the average term is not more than five or six months at the outside."

[1] Report, p. 169.

In 1878 Captain W. F. V. Harris, Governor of Dartmoor Prison, gave evidence before the Penal Servitude Acts Commission, and the following questions and answers are reported:

"8253. Do you observe that prisoners coming from separate confinement at Pentonville or Millbank are not quite equal to hard labour when they first arrive?—They do not appear to be so; they appear to be languid and listless, and hardly in good health I should say.

"8254. [Chairman]: I rather gather from you that you would not be of opinion that the period of nine months' separation could be extended with advantage?—I hardly think that it could be safely done, speaking from my own experience."

It is unnecessary to quote further evidence on this point, though pages might be filled with such expressions of opinion as those just given; all who have been in a position to observe the working of the separate system seem to be in agreement as to its eventual injurious effect upon the health of the prisoner, the only difference of opinion being as to the length of time for which it is safe to apply it, some fixing the limit at five or six, others at twelve, months."

But another, and perhaps greater, objection to the system is that it conflicts with the principle of making remunerative the labour of prisoners. No doubt there are some handicrafts which can be carried on in solitude, but if a profit is to be extracted from the work done in prisons throughout the country a larger scope will be required for prisoners' energies than solitary labour can afford;

for instance, it will be quite necessary to employ in agricultural labour a large number of men who come into prison without any technical experience, and others will be taught trades more efficiently and at a less expense in association than in separate cells. This practical difficulty has compelled the prison authorities to allow convicts to work in association in the Government prisons, but having still a hankering after the separate system, they have combined the two by providing that every man who has been sentenced to penal servitude shall undergo a preliminary period of separate confinement. The considerations which have so endeared the system to the official mind are three in number: first, it has the undoubted advantage of preventing the promiscuous intercommunication of prisoners; second, it is supposed to be peculiarly deterring; and third, it is supposed to have a reformatory effect. As we have now decided to abandon the attempt to deter real criminals, it is necessary only to consider how far the reformatory influence of the system is a real one. This point has already been adverted to, and some evidence given with regard to it. It is imagined that the mind of a prisoner being subdued and chastened by a term of separate confinement is more open to the beneficial effects of religious teaching. The fact is, the nervous system of a man in separate confinement becomes morbidly sensitive to external influences, periods of deep depression may be suddenly followed by periods of excessive elation, hope and despondency rapidly alternate, producing an un-

healthy mental condition in which the emotions are unduly exalted, and in which the prisoner will easily be moved to tears or laughter, to repentance and remorse. Now, religion being an influence which appeals mainly to the emotions, it is natural that a person in the condition supposed will be affected by it, and being subjected to no temptation, and having no means of putting his newly-formed resolutions to the test, will honestly believe that he is regenerate, and capable of leading a new life. But the man's real nature, the nature which he has inherited, and which has been slowly modified by the constantly recurring impressions of years, is unaltered, it cannot have been altered: no new habits have been formed; no distaste for vice by the constant performance of virtuous acts and the resistance of temptations has been produced; there has been no opportunity for anything of the sort; the man's moral being has been propped up by artificial supports; from all those means of strengthening his moral faculties which are afforded by the exercise of self-control, temperance, unselfishness, he has been carefully warded, an abnormal nervous state —the result of an abnormal treatment—has been worked upon, and it is supposed that the man is reformed. Experience and statistics give the lie to this supposition; and it is, indeed, only natural that as soon as the man is restored to normal conditions his emotional exaltation with the fair blossoms that have been grafted upon it should die away; but the man is fundamentally the same, the appetites and passions which formerly ruled

him were only dormant, their long sleep is only likely to be followed by a reaction to proportionate excesses, and, as Mr. Perry and Dr. Howe have pointed out, the abnormal susceptibility with which he is temporarily affected leaves him as open to bad impressions on his discharge as in prison he was to good ones. It may be that in a few cases, where the prisoner's character was not naturally very bad, and when he is successful in obtaining a situation soon after his release, thus coming into the midst of influences which tend to preserve in his mind the effect of the religious teaching of the prison chaplain and the force of the good resolutions he has made, a permanent reformation is effected; but this is only because, in the environment into which the man is fortunately placed, corrupting examples are wanting and conditions exist favourable to the acquirement of those habits of industry and upright dealing which, under a proper system of prison discipline, he ought already to be imbued with on his discharge.

The plea, therefore, that the separate system is a reformatory one cannot be made good, neither is it found in practice to be appreciably deterrent, while it is open to grave objections which may be thus summed up: it is unnatural, it is uneconomical, it is dangerous to health, it is unjust to the prisoner "because it throws him back into society with diminished physical ability to encounter the variableness of climate, the severity of labour, and the pinchings of want, to which, as a labourer in the market of competition, he must be ever

liable;"[1] it is not really reformatory, but, on the contrary, turns the prisoner loose in a condition of mind particularly liable to be impressed by the incitements to evil of stronger-minded men; it is not philosophic, the prisoner is not exposed to any temptation, and his character is not tested; finally, it has been tried and found wanting.

§ 3. We come now to a consideration of the system known as the Associated Silent System, the chief advocate of which was the late George Laval Chesterton, to whom reference has already been made in these pages; by him the system was probably more rigorously carried out in practice than it has ever been before or since his time, though the system is now nominally in operation in the Government convict prisons. It is at once evident that this system is free from many of the objections which can be urged against the separate system: there is no fear of injury to health; by associated work the employment of the prisoners can be more economically carried on, and the state of things is altogether more normal and natural. Mr. Chesterton has given some examples which bring out very markedly the effect which each system is apt to exercise upon the minds of those subjected to it, the irritating effect of long solitude producing an abnormal nervous state, in contrast to the natural frame of mind produced by association with other human beings. In the Report of the Select Committee on Prison Discipline, 1850, the following questions and answers appear:

[1] Mr. C. PEARSON. Report of the Select Committee on Prison Discipline, 1850, p. xxvii.

"8470. [Mr. C. Pearson] : I believe you have in the mat-making room a man of the name of Clarke, who came from Newgate, having been sentenced for a murderous attack upon a keeper in Pentonville Prison ?—[Mr. Chesterton] : I have.

"8471. What did you understand was the attack which he made upon his warder in Pentonville ?—He was working at mat-making, as I understand, in a separate cell, and when the warder opened the door he assailed him with a stool; he broke it, and would have killed him, no doubt, if assistance had not been at hand.

"8472. The Pentonville system has been described as soothing and tranquillizing; when this man came to you under sentence for the murderous attack in Pentonville, what did you do with him ?—I put him immediately into association, but I gave him a very friendly caution as to his conduct. I had been informed that he had used threats of violence towards us in Newgate, and I first told him of our power to repress any violence, and the very heavy punishment which would await him if he attempted it; then I pointed out to him, as earnestly as I possibly could, the duty incumbent upon him to behave peaceably and quietly and submissively; the man fell at once into an orderly frame of mind, and has continued in the best frame of mind ever since.

"8473. [Sir J. Packington] : How long has he been with you ?—About nine months.

"8475. [Mr. C. Pearson] : Your system being described as irritating, do you allow him weapons and instruments in his trade as a mat-maker ?—

Every instrument that is necessary for his work; a sharp-pointed knife.

"8477. I believe some years since a prisoner did make an attack upon one of your warders?—He did; he killed him.

"8478. Was the prisoner at that time in congregation, or was he in a separate cell?—He was in a cell."

But although this system is a decidedly nearer approach to the natural state of man, and therefore preferable to complete separation, it is clearly yet far from a perfect system in that respect, and it has the further objection—a great one, when viewed in connection with the desire to make prisons self-supporting—that a large staff of warders is required to keep silence. In the Government prisons the inefficiency of the staff much impairs the effectiveness of the system as a bar to communication between prisoners, and there is plenty of evidence that improper communications take place. The author of "Five Years' Penal Servitude" has testified to this fact, and another ex-convict, Henry Harcourt, has stated that "as a matter of fact the present system encourages filthy talk, nothing will stop it. There is a great deal of talking. Take the case of the parson whom I mentioned to you; if he did speak, it would not be filthy and disgusting language that he would make use of. If he heard a disgusting remark he would try to give good advice; I have heard him do it, although he rendered himself liable to be punished for doing so. . . . I have heard the prisoners talk of all the things in Eng-

land. Under the present system the talk which they make use of would not be tolerated in a well-regulated brothel. To try to prevent prisoners talking in association is only to give officers an excuse for reporting those prisoners whom they dislike, no matter what they are talking about, whether it be their work or not. If prisoners were allowed to talk, a well-disposed prisoner would check and discourage evil talk, and an officer would be able to hear whether the language made use of deserved punishment or not; and if it did deserve punishment, the officer could report the offender and have him punished. The present system fosters filthy talk." [1]

Many witnesses who were examined by the Royal Commission, in 1878, testified to the same effect; *e.g.*, Mr. T. W. Harris, steward and manufacturer at Brixton Prison, Mr. T. B. Ll. Baker, Captain J. C. A. Lewis, Governor of Pentonville Prison, and others; another ex-convict, who gave evidence before the Commission, stated that in the blacksmith's shop in which he was working at Parkhurst, a robbery was planned, and was executed in less than three months after the man was liberated and got to Birmingham.

If the supervision is sufficiently strict the number of punishments for talking rise to an enormous height, which is not a desirable accompaniment of any system; for instance, in 1848 there were 11,624 punishments in Coldbath Fields Prison, where the system was carried out with the utmost

[1] Report of the Penal Servitude Acts Commission, 1879, vol. ii. p. 357.

stringency, and 9,153 punishments in Westminster Bridewell, where it was also in operation; while at the House of Detention for the county of Middlesex, a separate system prison, there were 135 punishments, and in Reading Prison 272, during the same year.

Mr. Chesterton himself fully recognized the practical difficulties in the way of properly applying his favourite system, and has left the following record of his matured views with regard to it:[1] "Highly as I value the silent system, patiently and sternly administered, I do not think it adapted to the prisons of the country at large, and especially under their present organization. In the first place, its efficacious enforcement demands so large a staff of officers as positively to alarm economical administrators; whereas, without the materials for ample supervision under every possible contingency, the whole effort will prove abortive. Secondly, even with the requisite staff of supervisors, the unswerving perseverance and determination, are scarcely to be expected in a promiscuous body of governors selected from various dissimilar sources. Thirdly, not only must the chief officer prove prompt, decisive, and indefatigably zealous, but his deputy must also be of the same stamp, and the subordinates must continue to be weeded, until you are enabled to retain men who are at once patient, just, and vigilant, and who are capable of appreciating the public utility of their arduous task."

Although the two latter of these conditions will

[1] "Revelations of Prison Life," vol. ii. p. 2.

require to be complied with for the proper administration of any really satisfactory system of prison discipline, the first undoubtedly forms a serious objection which is peculiar to the silent system.

This system, therefore, in so far as it is an association system, is satisfactory; but in so far as it is a silent system, it involves practical difficulties, and, though more natural and philosophical than the separate system, falls far short of the ideal which we have set before us.

§ 4. We now see what is the problem which offers itself for our solution. It is this: to devise a system which shall have all the advantages of the associated silent system without the grave defects which result from compulsory silence. There is but one solution—a solution which has already been more than once proposed, but not yet acted upon—and that is, by a classification of prisoners; and the new scheme for the determination of sentences sketched in the last chapter gives us a basis for such classification. Convicts (giving the word a broad signification) were there divided into three classes—first offenders, whose previous character was provably good; first offenders, whose previous character was doubtful; and habitual criminals and first offenders, whose antecedents were provably bad or extremely suspicious. This plan would not be open to the objection which has been urged against the proposal to divide prisoners into two classes, placing in the first class those who have never previously been convicted, and in the second those who have one or more previous convictions recorded against them; with reference to which

proposal it has been justly urged by Sir E. Du Cane, and others, that a man who has been convicted for the first time may very possibly be exceedingly corrupt, and a few of such men, placed in free association with other once-convicted prisoners, might corrupt many of these. But if ascertained character is made the basis of classification, and those whose character is at all doubtful are placed in a category by themselves, this danger will be avoided.

Of course, it may very truly be said that in this intermediate class both corrupt and uncorrupted men may be mingled; but if reasonable care be taken in the investigation of a prisoner's antecedents, which the proposed new method of determining sentences will make very important, it is not likely that either very moral or very vicious men will be placed in the intermediate class; for the cases will surely be quite exceptional in which the former will not have connections or acquaintance of obvious respectability to testify as to their character; and a man of more than the average depravity among prisoners will nearly always have been provably connected with thieves, or persons of undoubted anti-social tendencies. Grant, however, that notwithstanding all precautions, some very bad men found their way into the "doubtful" class, it is quite certain that by proper supervision they would be discovered by the prison authorities before they had had time to do much harm, and might then be transferred to the class to which they properly belonged. Mr. George Clifton, Governor of Portland Prison in 1878, has left on

record an opinion to this effect, and even went to the extent of saying that the ease with which a prison governor could discover the real character of such men would render harmless even the system of dividing criminals into only two classes, according as they had been convicted once or oftener. He said: [1] "I think that the prison officers would very soon detect them (*i.e.*, really corrupt men), from their general knowledge of prison life, and so on; I think that in a very short time the governor, with the assistance of his officers, would be able to find out whether any of them had been criminals before, and then they should be drafted off to the prisons where men were undergoing first, second, third, fourth, and fifth sentences."

In reply to the question, "Supposing that the conduct of these men in prison was good, should you then be able to draft them off?" Mr. Clifton said: "I think that they would show what they were by their manner, and by their coming in contact with the others; and with the assistance which is rendered to a governor by the convicts themselves, he would have an opportunity of discriminating and finding out the men who were really criminals in disguise undergoing first sentences."

§ 5. Thus the intermediate class would be in a continual state of flux; so soon as it became certain that any given man might safely mingle with men of good character without in any way disgusting them or corrupting the morals of the

[1] Report of the Penal Servitude Acts Commission, 1879, vol. ii. p. 167.

weak-minded among them, he would be promoted into the superior class ; and any prisoner who was found to be of a really vicious and immoral character would be degraded into the habitual criminal class. From this latter class, again, men who seemed to deserve it by their good conduct and moderation in speech might be promoted into the intermediate class, and finally even into the superior class. Much more can be done with prisoners through hope than by repression ; and so increased comforts and indulgences might, with great advantage, be permitted as the prisoner rose from class to class ; if he abused the privilege accorded to him he would be at once degraded ; and it would probably be wise to sentence convicted men to a minimum term of imprisonment which should be subject to an indefinite prolongation until the prisoner had remained for so many weeks or months in the superior class.

The three classes should be kept in separate prisons ; there would be so many first class, so many second, and so many third class prisons, the number of each to be determined as experience might direct. If thought advisable, certain prisons might still be set apart for lunatic and infirm criminals, but all other existing distinctions should be abolished.

§ 6. Of these, the principle is the distinction between "prisoner" and "convict," the former term being applied to those who are sentenced to imprisonment, with or without hard labour, and are subjected to the operation of the separate system, and the latter to those who are sentenced

to penal servitude, and who, after spending nine months in separation, are treated according to a lax form of the associated silent system. If the system of prison discipline here advocated were adopted, the *raison d'être* of the above-mentioned distinction would disappear. According to present regulations, the most severe sentence of imprisonment is for two years, howbeit, in extreme cases, two such sentences, to run successively, may be passed; but in general, two years of the separate system is considered to be as much as a man can stand without serious injury to his health, and even to this extent, as we have seen, it has been pronounced dangerous by many persons competent to form an opinion upon the subject; *à fortiori* are two such sentences, equivalent to one sentence of four years' imprisonment, dangerously severe. A gentleman who had to undergo twelve months' imprisonment, and had opportunities of learning how such a sentence is estimated by habitual criminals, has stated that—"This sentence of four years' imprisonment is said to be the severest punishment, with the exception of death, known to the English law. I have heard on very good authority that a learned judge—I think it was Baron Bramwell—after passing this sentence upon a man, turned to the high sheriff and remarked, 'I have only passed that sentence twice before; in the one case the man died, in the other he went raving mad; and I believe it is a sentence that no man can survive and retain his senses.'" [1]

[1] "Her Majesty's Prisons." By One who has tried them. Vol. i. p. 164.

Consequently, if it is desired to give a man a longer sentence than two years' imprisonment, it is the custom to send him to penal servitude for a minimum term of five years. But if prisoners are classified as suggested, and a uniform system of association carried out in all prisons, the necessity for the present distinction between convicts and prisoners naturally disappears.

§ 7. The judicial system will thus be much simplified. Very large discretion will be left to judges, but not more, I am sure, than they are competent to exercise; and convicted criminals will be sentenced to imprisonment for a minimum term in one of the three classes, the length of which term will be fixed by such considerations as those indicated in the previous chapter, and may, in accordance with the principles laid down in sections 4 and 5 of this chapter, be indefinitely prolonged. The effect of which reforms will be, that society will be guaranteed against the wanton emission of brutes in human form, of prison-manufactured criminals, and of dangerous beings hardened and rendered more desperate by injudicious treatment; but will, on the contrary, be benefitted by the labour of such men who, as fast as they are caught, will be placed in captivity, there to remain until there is very strong reason to believe they are really reformed, and in the meanwhile will be obliged to work—or starve.

§ 8. It is not advisable to lay down many hard and fast rules which shall restrict governors in their treatment of prisoners. Human nature is so elastic, and there are so many moods and varieties

of it, that it is most mischievous to deal with men in the lump, as though they constituted a quantity of logs of wood or pigs of iron, all of more or less the same hardness, gravity and temper. Certain broad principles must be established, and men of great knowledge of human nature, of broad and humane sympathies, of almost inexhaustible patience, but withal of decision, and possessing the capability of inflexible sternness when justice and wisdom demand such an attitude, should be appointed as governors, with large discretion to apply those principles in practice. Such men are certainly not as common as blackberries, but they are to be had if sufficient inducement is offered them to come forward and accept such posts. They are not, however, likely to apply for prison governorships under the present system, because they would be conscious that their peculiar abilities would be thrown away in the attempt to administer with good effect so rotten a scheme, and the harassing regulations with which their hands would be tied would be irritating beyond endurance to a strong man who was capable of thinking for himself. But adopt such a system as will afford good hope of satisfactory results, a humane and philosophical system, leave the administrators of it a wide discretion, and offer salaries proportionate to the great qualities and indefatigable application required, and there is no doubt that the proper men will be forthcoming. Warders, too, would have to be a far superior class of men to those now employed.

§ 9. The chief difficulty is that prisons are under

Government control, and when one thinks of the jobbery, the extravagance, the officialism which characterize our public offices and State departments, some flagrant cases of which have been recently exposed, it is enough to make him groan aloud in despair of getting a philosophical system effectively put into operation by such agents and such means. It does, indeed, seem almost hopeless to expect to get a perfect scheme of prison discipline carried out under Government officials. A man, after being a State official for a number of years, becomes such a creature of routine that every human sentiment seems, during his business hours, to have been dried out of him, producing a condition of mind which, in its connection with prisons, was powerfully satirized by Charles Reade in his novel, "It is never too late to Mend."

Criminals, in the eyes of such men, constitute a raw material which has to undergo, at the public expense, a certain definite treatment through the agency of a complicated machinery, and which comes forth from the process a finished article: a rascal is put into a machine, a crank is made to revolve a definite number of times, and a virtuous man is supposed to come forth. If by any chance the man issues no better, or even worse, than he went in, that is no concern of the State official; he ought to, that's all: the machinery was elaborated with great care and most deliberately by all the intellect of officialdom in order to bring about a given result, and we must therefore take it for granted that that result has been brought about. But human beings cannot be treated advan-

tageously as if they were lumps of dead metal, or clay: man in the mass may be, as has been said, a mathematical problem, but the individual is an enigma which has its own special key, and it is not given to many men to discover the keys of these enigmas. Each single man has his peculiar idiosyncracy, his own ruling passion, his own weak point, his own desires, and his own repugnances, and the treatment of 1,500 men in one institution by means of a cast-iron system, under inflexible rules, is simply a modern revival of the bed of Procrustes. To deal with these human beings you must have a man who understands human nature, and who can mould the characters of men—such a one as M. de Metz, as Colonel Montesinos, as Captain Maconochie, or as Captain Crofton; but who ever heard of a prison governor being selected by Government on account of such qualifications? Party jobbery and favouritism sometimes come in; but even when the motives of the choice are pure, the questions most considered are whether the candidate is a good disciplinarian, and one who is likely to apply thoroughly and effectively the excellent system which happens to be in favour with the official wiseacres for the time being. The system is everything—individuality and humanity, most potent forces, are ignored, the more human sentiments and impulses of the prisoners are numbed by want of sympathy, and all that could tend towards their regeneration is strangled with red tape.

One or two instances may be given of the absurd officialism which is rife. Here is a quotation from

a book already referred to, entitled, "Her Majesty's Prisons," [1] which seems to have been written with great moderation and impartiality: "'Ah, red tape; nothing but red tape,' interrupted old Pell (a warder). 'Before you can get so much as a mat-needle for a man, you have to apply to the chief, he has to apply to the governor, and the governor has to send an application to the prisoner's commissioners, and then, perhaps, with great luck, you may get this farthing needle in a fortnight, and when about five shillings' worth of paper and stamps have been spent about it.'" Dr. McCook Weir gives a mournful account of Christmas Day spent in prison, and points out what an excellent opportunity for the application of humanizing influences is thrown away by a stern routine. He says: [2] "Prisoners are allowed an extra hour in bed on Sundays and great religious festivals, by way, I presume, of compensation for their other privations. But this is all. They are not permitted to share with the outside world in the festivities of the day, no, not to the extent of sucking an orange. This is both unchristian and brutal. Since my own sad experience I have applied to the governor of the prison in question to know if I could send in a hamper of oranges and mince-pies on Christmas Day. 'Impossible; such a thing was never contemplated in the regulations. It would be an unpardonable infringement of official decorum and sanctity! But, still, we mean to reform the wretch by spiritual consolation.' 'Well, may I send him a tract?' 'A tract!' roar the official

[1] Vol. ii. p. 288. [2] "Prison Despotism," p. 111.

hirelings in Downing Street; 'have we not a chaplain already?' 'Well, surely, I may send him a note, enclosing the photograph of his wife and little child?' 'Impossible, sir; his next letter is not due for three months according to the regulations, and such enclosures are strictly prohibited.' 'But, you know, it is Christmas Day?' 'Christmas Day, sir, is nothing to us beyond an ordinary Sunday, and the prisoner enjoys freedom from labour and attends two religious services.' 'But is not his dinner the same as on ordinary Sundays?' 'Quite the same, sir; why should the law-breaker be pampered, and thus encouraged to go on in his career of crime?' Such are the facts. Official regulations have hedged the prisoner round like gates of brass. Is it wonderful that his heart hardens in proportion to his galling restraint and seclusion from the world? But is he not a man, and a member of God's great commonwealth, after all?"

And yet it seems that if Government has any proper functions the dealing with criminals is one of them. Undoubtedly, the less Government meddles in the affairs of the community the better for the community and for every member of it; and if any one will devise a practicable and safe scheme for dealing with criminals by means of a private association he will do a service to the State. Meanwhile, the remedy for those evils to which I have been referring lies with the people; so soon as the voters of the United Kingdom will leave straining their eyes in gazing towards remote parts of the earth, bullying Ireland, following red-herring trails drawn athwart their course by self-seeking

or hobby-riding politicians, and rouse themselves to a sense of the gross abuses which exist in our public service, and, above all, to a sense of the enormous loss entailed by the permanent existence among them of 60,000 habitual law-breakers, and of the futility of the means now employed to get rid of them, the reformation will begin. The people, the tax-payers, are the interested parties, and the remedy lies with them.

§ 10. I, however, strongly deprecate any such sentiments as those colloquially known as "namby-pambyism." It is right that every man who does wrong should learn that no action prejudicial to social welfare may be performed with impunity; but the mischief of the present methods for the attainment of this object lies in the fact that prisoners are irritated and galled by petty annoyances, crushed by stupid and inflexible regulations, and made to feel that they are pariahs, brutes, good-for-nothings, that it is useless to endeavour to be any different, for nothing better is expected of them.

It is a law of human nature that men love approbation; this is too generally admitted to require support here by special evidence. In whatever kind of society a man is forced to live he will try to stand well with it, even though he despise it; and if a man, descended from criminals, and therefore naturally endowed with vicious instincts, and habituated from childhood to anti-social thoughts and acts, can obtain applause from his fellows for immoral conduct, while learning that the contrary behaviour will only identify him with

those whom he has been taught to look upon as the enemies and despisers of his class, it is but natural that he should be impelled to the performance of such exploits as are held meritorious by those of whom alone the good or bad opinion can affect him. And herein lies a powerful lever by which the characters of criminals may be operated on, though it has hitherto been quite neglected. No scope has been given to prisoners for the exercise of any good qualities by which they might earn the approbation of persons whose opinion they had learnt to value. In the separate system prisons what encouragement to emulation is afforded by the solitary turning of a useless crank, by the monotonous and equally useless treadwheel and by the sickening tedium of oakum-picking? In the convict establishments, what healthy rivalry is possible among men who are driven in herds like slaves to their compulsory and unrewarded task? Patience, the virtue of the ass, is the only good quality which these men have the opportunity of exercising, and, as a rule, there is no one but their brutal companions whose good opinion they care for and whose approbation they would strive to gain. It is only to be expected that mischief should result from such a state of things; whereas if governors, warders, and chaplains would talk frequently to the prisoners, treating them like human beings, sympathizing with their difficulties and their great temptations rather than demonstrating to them the heinousness of their actions, filling their minds with softer and more charitable thoughts, and, in short, prov-

ing themselves true friends to these wretched creatures, the prisoners would begin to find satisfaction in pleasing those whom they had found kind and sympathetic, would strive to earn their approbation and show themselves deserving of the treatment they had experienced.

Meanwhile, and by degrees, the prisoners should be placed in positions in which temptations would have to be resisted and self-control exercised. When they conducted themselves well under such circumstances they should be encouraged by hearty words, and by increased privileges and liberty, culminating in promotion to the superior class; if they yielded to the temptation, the governor should express to them his grief and disappointment at their abuse of his confidence, and if this course had no effect, a second offence should be visited with loss of certain privileges. An insubordinate, or very refractory prisoner, might be punished by lengthening the term of his stay in an inferior class, by degradation to the class below, or in such other ways as the governor might think desirable.

§ 11. It is clear that the proper administration of such a system would require that governors, warders, and chaplains, should be men of a superior class to those now employed and be very carefully selected. Mr. Chesterton has confidently asserted that by taking sufficient trouble the right kind of men could be obtained. At present little trouble is taken to secure that prison officials should be peculiarly fitted for their very important and very arduous duties; and warders, especially,

are often of such a character as to make the men under their charge much worse instead of better. Ex-prisoners who have made statements with regard to prison administration are unanimous on this point, and even if a very large allowance is made for exaggeration we are still led to the conclusion that warders, as a class, have not the qualifications requisite for judicious treatment of prisoners, and that many are cruel, unjust, and likely to ruin many a promising man's character. Several ex-convicts were examined by the Penal Servitude Acts Commission of 1878, one of whom was Mr. Michael Davitt, and all gave instances, from their own experience, of gross acts of cruelty and tyranny on the part of warders. The author of "Five Years' Penal Servitude"[1] says: "The generality of men who enter the convict service as assistant-warders are of a very poor type. They take to it as a last resource, except, in some instances, such as where whole families—father and sons—are in it, and are, to a certain extent, born and bred in it. A man generally comes there with hardly a rag to his back or a shoe to his foot; has never had the least authority over another man in his life, and is suddenly placed with very great power and authority over a lot of men who are, for the time being, slaves to his orders, whims, and fancies; most of them are perfect tyrants."

The author of "Her Majesty's Prisons"[2] which was published as recently as 1881, says: "There are numerous and constant cases of gross cruelty

[1] P. 314. [2] Vol. ii. p. 17.

and injustice in our prisons, and many a prisoner's life is lost by the neglect and ill-treatment of brutal warders. A man in prison has no opportunity of bringing his grievances before the notice of the authorities, for the monthly visit of the Government Inspector is a silly farce, and whether prisoners are treated fairly or not depends entirely on the warders ; at all events it did at ——shire, and I expect it is the same in all but a few of the prisons where there are exceptionally clever, conscientious governors." Several particular cases of inhumanity on the part of warders, one, at least, resulting in a man's death, are given by the same author, but are rather too long to quote.

And not only convicts, who might possibly be thought to be prejudiced persons, but even prison officials have testified to the same fact. Captain H. K. Wilson, Governor of Gloucester Gaol for five years, of Maidstone for four years, and, finally, Inspector of Prisons, has said : " The difficulty is to teach a warder that a prisoner is a human being ; that is what I have generally found,"[1] and again he stated that warders, both military and civilian, rather tend to be overbearing with the prisoners.

Even the chaplains, who are supposed to exercise a humanizing and reformatory influence over the prisoners, are often very inefficient. An ex-convict who gave evidence before the Penal Servitude Acts Commission of 1878, said :[2] " The chaplain never visited me once, nor asked to see me. . . . I am

[1] Report of the Penal Servitude Acts Commission, vol. ii. p. 391.

[2] Ibid. p. 417.

speaking of all the chaplains that I have seen, except at Pentonville and Portsmouth. At Portsmouth Mr. Bankes used to come into the infirmary and address the men very nicely. I think that he is a very excellent man. But even in the infirmary at Parkhurst all that a chaplain would do (and I was there three months) was that he would go to the bed and say, 'Are you better to-day?' and before the man could say, 'Yes, sir,' he was at the next bed, and so on all round. After you leave Pentonville there is no attempt, except at Portsmouth, to do men good and to get them to reform. . . . If the chaplain would take the trouble to do as many excellent clergymen do, and to visit their prisoners as clergymen visit their parishioners, and talk to them, I am satisfied that it would do them good. It might make a few hypocrites, but, on the other hand, it would have a very good effect. I have heard the prisoners say many times, 'Oh, they care nothing about our souls.' I have seen the men turn away when the chaplain has come to the bed, and pretend to be asleep rather than listen to him. That was not the case at Portsmouth. Mr. Bankes was always listened to." Another ex-convict[1] stated that at Pentonville he only saw the chaplain once a month, and at Brixton only once the whole time he was there. The author of "Her Majesty's Prisons" says:[2] "During the afternoon I had a visit from the chaplain; he walked meekly into my cell, stared silently at me for a few moments, until I felt inclined to ask him what on earth he wanted, and then softly said—

[1] Report, vol. ii. p. 436. [2] Vol. i. p. 255.

"'What's your name?'

"I told him, though what he asked for I do not know, as he knew my name and who I was perfectly well.

"'Have you been taught your catechism?' was his next question.

"'Yes,' I said, 'when I was a child.'

"'And you have been instructed in your Bible?'

"'Yes,' I said, 'I have been.'

"Then there was another long pause, during which he blinked solemnly at me like some respectable old barn owl, and finally hazarded the suggestion, 'That I had been leading a very reckless life, he was afraid.'

"'Not more reckless than other people,' I replied, half-defiantly; for I was bothered and worried with the man and his manner, and everything about him.

"'Ah! perhaps not, perhaps not,' he answered; and then, after another pause, during which he alternately gazed first at me and then at the ceiling, he suddenly said, 'Good day,' and marched out.

"When I came to think the interview over, I could hardly help laughing, the man's manner and appearance were so exceedingly ludicrous; but, if mine was a sample of what usually happened when he visited prisoners, I don't fancy that much good was likely to be the result of his visits."

Even though the chaplain were everything that could be desired—such a man, for instance, as Mr. Eden, in Charles Reade's powerful novel—it is impossible for one man to give the proper amount

of attention to a thousand or more prisoners; he could not even visit five hundred as often as they should be visited; but if the efforts of the chaplain were supplemented by those of the governor and warders in the way I have suggested, one such chaplain would be sufficient.

§ 12. Some people may, perhaps, say, "It is no use; these men are bad to the core; if you had Jesus of Nazareth for chaplain, and picked your governors and warders with the greatest care imaginable, you would no more change them by such means, or any means, than you can by any known means convert coal into diamonds." There may, indeed, be some criminals who are quite hopeless, but I have already given instances to show what marvels even one man, a judicious governor, can accomplish; and it is simply not a fact that criminals, as a class, are utterly bad. They have a moral code, though it differs from ours; there are actions which among them are reckoned praiseworthy, and others which are held to be dishonourable; they are capable of great self-sacrifice, great generosity, great endurance on behalf of one another; but society which they regard, and truly not without some reason, as their natural enemy, they think may be meritoriously plundered and attacked. Mr. G. L. Chesterton, who was a keen observer of the manners and character of these men, has said: "In the midst of all these innovations upon prison regulations, I learned a fact, which not a little surprised me—viz., the liberal supply of money and articles of comfort, furnished by

attached relatives and friends to many of the lowest order of criminals. Indeed, the attention this class of persons pay to each other's wants, constitutes a redeeming trait in the midst of their degenerate habits and pursuits. The extent to which they will send in combs, gloves, flannels, &c., in the present day, and used liberally to supply money in the bygone times of which I am treating, exceeds credibility. In a like spirit will relatives or companions, all vicious though they be, be found standing for hours in the cold and rain to welcome and succour liberated friends. Some of these affectionate demonstrations are of so touching a nature, that the highest and best members of society might derive from them an example worthy of imitation."[1]

§ 13. It is for society, in its own interest, to prove to these persons, by a thorough revolution in its criminal procedure, and through the agency of properly qualified prison governors, warders, and chaplains, that it only wishes them well; because the welfare of the State being the sum of the welfare of its component parts, no class can be miserable or vicious without adversely affecting the whole body.

Another principle upon which prison officials must act is this: that if men are spied upon, kept in severe restraint, and everything done to show that no confidence is reposed in them, they will consider themselves bound by no moral obligations, but will hold it meritorious to outwit their guardians, from which will result a con-

[1] "Revelations of Prison Life," p. 50.

tinual contest, the prisoners endeavouring to evade detection in breaking the regulations, and the overseers endeavouring to frustrate and punish such attempts; whereas, if a man is trusted, he will feel a desire to prove himself worthy of the confidence which has been reposed in him, and a repugnance at abusing it. A remarkable instance of this fact is afforded by the different treatment of boys at French and English schools. In France the school is surrounded by a wall, a master is continually among the boys watching their movements—they are like prisoners, and no confidence is placed in them—the result is that, whenever they think they can evade detection, they break the rules. In England, of course, the system is very different, and M. Francisque Sarcey, after a visit to this country, wrote a series of letters to "Le XIX.me Siècle," in June, 1879, giving a description of Charterhouse School, and expressing his astonishment at what he had seen and heard there. He was amazed to find that the houses in which the boys live were surrounded by no wall, that the boys might ramble about the country as they pleased, and always returned. "On the day of my visit," he says, "I had before me an example, very surprising for us, of this liberty which the boys are allowed. There was, posted on the wall, an *ordre du jour;* mechanically I approached and read. It said that such a division would have the right to go, on that day, to bathe in the river between certain hours. I shuddered; for the cold was biting, and the wind keen.

"'But are they going alone?' I asked.

"'Wait a moment, you shall see. It is time.' And I saw a *volée* of boys run upstairs, four steps at a time, to a room, whence they emerged in flannel, and then they started off, without any master, down to the river.

"'Suppose an accident happens?'

"'Posts mark out the limits which they may not pass; no one will pass them; it is the rule, and here every one respects the rule, because it is the rule. . . . Be assured that, at the appointed time, they will all be back, because it is the rule. They observe it the better from being left more free.'"

An incident which has already been quoted from the account of the Valencia prison, is an example of the same fact.

§ 14. The extreme supervision which is thought necessary in our prisons is often such as to produce more harm than good; for instance, the periodical stripping of convicts quite naked in the presence of warders, and the waking men up in the middle of the night by flashing a lantern upon them. Of course too much freedom could not safely be given at once to a prisoner of the worst class; but the prospect of greater liberty and less supervision would be a great inducement to good behaviour; and as the prisoner was allowed to mingle and converse more and more unrestrainedly with others, and prevented only from breaking regulations by moral obligations, he would be learning a lesson in self-control, which would be of the utmost value to him when, on his discharge,

he had again to mingle with other human beings. This plan would also have the inestimable advantage of putting into the hand of governors a large range of rewards and punishments of a very satisfactory kind. Continued good conduct would be rewarded by an increase of liberty, and a breach of rules by deprivation of such privileges or loss of marks. This would avoid the necessity for recurring to such very objectionable punishments as bread-and-water diet, dark-cell, irons and flogging, which should only be resorted to in extreme cases, and under a rational system would probably never be required.

An ex-convict was examined upon the subject of prison-punishments by the Penal Servitude Acts Commission of 1878, and the following questions and answers are reported:

"5504. [Chairman]: What change in the rules do you think is desirable?—I think that there should be more, if I may use the term, moral force used instead of physical force. The present rules are all for physical force; the present rules are that everything is punishment; if a man is reported for insolence he is not simply sent into the cells, but he loses his class, he loses his remission marks, he loses his letter, he loses his visit, and suffers a reduction in quantity of food.

"5505. Do you not think that those are very justifiable modes of punishment?—I think that they are too severe (if I may be allowed the observation) upon a man; there is an entire separation from the world, and from all that is likely to elevate a man.

"5506. [Sir H. Holland]: But it does not necessarily follow that any one of those punishments would be inflicted for a first offence?—To my own knowledge there has been no instance in which one of those punishments has been inflicted solely.

"5507. Are you not aware of any cases where a prisoner has been reprimanded and cautioned?—I have heard of it under Captain Harvey only."

As some people may, not unnaturally, perhaps, regard with suspicion the statements and opinions of ex-convicts, I will also quote here the opinion of Dr. Robert Macdonnell, ten years medical superintendent of Mountjoy Convict Prison in Ireland, who says: "I should like to mention that, with regard to the punishments, it is always possible, I think, in prisons, to allow nearly all the prisoners to gain some little privileges by their good conduct, and the best kind of punishment will, I believe, consist in depriving them of those privileges. I think, for instance, that the tobacco mania might possibly be utilized in this way—that they might be allowed, after twelve months or two years of good conduct and good marks to get something of this kind, and that it would be a good means of punishment to stop it from them for misconduct. That was done at Mountjoy, in some degree, with the younger convicts; when they had good-conduct stripes upon their arms they were allowed, when at exercise, to play at football, instead of merely walking round and round in a ring, and for misconduct they were deprived of this privilege. Those punishments are far better than whipping or dark cells. Of course, there will

always be some prisoners so bad that they never will be good enough to gain any privilege, but they always form, I think, a small minority of the whole. I should also like to say that I gave a good deal of attention to punishment as a deterrent, and I think that punishments of a particular class very often harden very much. Even with regard to dietetic punishments, it is not a good thing, if a prisoner is only kept for three or four months in a prison, to enervate him and weaken him by a low diet during that short time, so that when he goes out he is not able to earn a livelihood by labour. A reduction of dietary should not, therefore, be made as a punishment; it lowers the prisoners and irritates them, and unfits them when they go out again, for entering upon a career which is all-important to them as regards earning an honest livelihood. The real mode of dealing with the matter, to my mind, is by lengthening the sentence, and bringing the prisoners more under a reformatory influence, and not inflicting upon them punishments which have a brutalizing tendency." [1]

§ 15. It really seems a strange thing that when all those men who have been singularly successful in the reformation of criminals, and men who, like Dr. Macdonnell, have had a long experience of the working of a rational method, are unanimous in declaring that hope is an incomparably more satisfactory agent than fear, our prison authorities persist in relying almost solely on the latter, with the effect that if a man once becomes criminal he

[1] Report of the Penal Servitude Acts Commission, vol. ii. p. 463.

is more likely to be made worse than better. The system approved by Dr. Macdonnell, which has, in different forms, been tried with unvarying success, would be particularly easy to carry out if the plan of dividing prisoners into three classes were adopted. The inducement to good behaviour held out by the prospect of eventual promotion to the superior class should be very great; prisoners whose character was such as to justify their being placed in a prison of this class should be allowed to write and receive letters without restriction, though the governor might have the power to read any letter, and even refuse to allow it to be sent, to receive visits from relations and friends at appointed hours, to have access to newspapers, to amuse themselves in association in innocent ways; their life should be as social as possible, in order that they might become fitted for social life in freedom, and whoever failed to stand this test would, of course, be degraded; finally, the number of regular prison warders should be few, but monitors should be chosen from the best behaved of the prisoners to keep order among the rest and report improper conduct or conversation. Such pure luxuries as tobacco, spirits, or beer, are not to be recommended for prisoners under any circumstances—the deprivation of such enjoyments, even when by good conduct they have merited the greatest alleviations of prison life, will cause them to reflect that wrong cannot be done with impunity. In the intermediate prisons the supervision would be more strict and the alleviations less; in the lowest class the discipline would be severe without

being irritating or damaging to health, and even in them a few privileges should be attainable, and means taken to test the prisoners' capability of resisting temptation, in order that they may undergo some probation before being advanced into the class above. Hypocrisy is the only thing to be feared, but evidence has already been given to show that with proper precautions such a fear is groundless. If every criminal in the lowest class had to remain for a tolerably long time under the judicious surveillance of competent governor and prison officials, and then had to pass through a second probation, exposed to greater temptations, before being placed in the highest class, there is not much danger of men attaining to that class until they were really fit for it.

§ 16. I pointed out in the previous chapter that in order to make the labour of convicts profitable, there must be offered to them some inducement to put forth their full energies. This has been attempted in two ways—one in the Belgian and French prisons, and the other by Captain Maconochie. By the former system the Government assigns to the prisoners a certain portion of the produce of their work, and retains the remainder to meet the expense of their maintenance. The prisoners are divided into three classes; the proportion of profit allowed to each class differs according to the nature of the crime and punishment; part of this allowance is paid to the prisoners for present expenses, and part is placed in a savings' bank, bearing interest at 4 per cent., and is given to the prisoner on his

dismissal. The prisoners are allowed on Saturday afternoon, with the money they receive, to purchase tobacco, wine, and other luxuries. This system is not in all respects satisfactory; it is not advisable that criminals should have money in their possession when in prison, and still less so that they should be permitted to employ it for the procuration of indulgences. There might be something to be said in favour of paying prisoners in the superior class in coin, though I should not feel inclined to recommend it; but if the worst classes of prisoners were allowed to have money in their possession, there would be great risk of their endeavouring to bribe the warders and use it improperly in other ways.

Captain Maconochie's plan consisted in allotting a certain number of marks to different kinds of labour, proportionate to the severity of the labour; for instance, he gave six marks for grinding a bushel of wheat; two marks for platting three yards of sennit; one mark for doing five loops in making a mat, and so on; the prisoners were divided into stages, in each of which a little more liberty was allowed than in the one below; every man had to earn one hundred marks before he could be promoted into the next stage to that in which he was; and instead of time sentences, Captain Maconochie proposed that every convicted man should be condemned to earn a given number of marks. Existing prison regulations prevented Captain Maconochie carrying out this system in its entirety, but so far as it could be applied it was attended with excellent results.

Now, reasons have been given in a former part of this work for thinking that the length of a prisoner's term, and the length of his stay in the inferior classes should be determined principally by general conduct; whereas Captain Maconochie's plan seems to give too much weight to pure industry. It is quite true that, according to his scheme, a prisoner might forfeit marks for bad conduct; but it seems, on the whole, better that prison officials of a superior class should be appointed, and should determine by careful observation of each man's behaviour whether he is fitted for promotion.

The law of Nature is that no man shall consume until he has produced, and it is this that compels free labourers to put forth their utmost endeavours. There can be no reason why criminals should be exempted from the penalties attached to idleness, nor why the same stimulus should not be applied to them as is applied to every free man. This may be done by a method compounded of the two plans just sketched. Let every prisoner be paid wages for his work, as in the Belgian prisons, but let him be paid in marks according to the method of Captain Maconochie. A certain deduction must be made for lodging, but the necessaries of life must be purchased by the prisoner with the marks he has received as wages. It shall be decided that one mark is to be reckoned as so much money; what he does not spend, the prisoner shall be allowed to deposit in a savings' bank and receive on his discharge. A modification of this plan was proposed by Mr. Pearson; but his sugges-

tion was that just sufficient food of a very plain character should be given to every prisoner to keep him from actual starvation, and that he might supplement this by means of the marks he earned. There is, however, no reason for extending to criminals this favourable treatment; every man on entering prison must be distinctly told that he must earn his own livelihood there—or starve; there is absolutely no reason why the State should be put to any expense on the account of such a man, and if he did not choose to keep himself at liberty he must keep himself in prison. Of course, such a scheme is open to abuse, and very great care would have to be exercised in administering it; with the present class of prison warders, and with prison doctors of such a character as are now not infrequently appointed, it would be quite out of the question; but if worked by carefully selected men there would be no danger. If thought necessary, two or even more medical men might be appointed to each prison, who should constantly and carefully examine the prisoners, and whenever they thought that a man's physical strength was not sufficient to enable him to earn the requisite number of marks at the work upon which he was employed, would at once report the fact to the governor and see that such a man was put to labour consistent with his health and strength; and every man whom they reported as really too ill to work would receive proper food gratis.

§ 17. It might be objected to this plan that, as the capabilities of men vary much, some prisoners

would earn a great many more marks than others in a given time, and this would be unfair. It certainly would seem hard upon the weaker and less intelligent ones; but the same thing occurs in the world outside; free men vary greatly in mental and physical capacity, but if any one were to propose to carry into effect a scheme for giving all men, whatever their capacity or utility to society, precisely the same remuneration, he would be ridiculed and called a socialist; and if socialism is fundamentally a fallacy, I do not see how it would become less so because applied to prisoners than when applied to free men. Moreover, this hardship would in prison be much alleviated by putting each man to the labour for which he was naturally most fitted, and by affording in his illnesses proper medical attention and suitable food gratis.

§ 18. In order that every reasonable facility might be afforded the prisoner, the food which he had to purchase should, as far as possible, combine the two qualities of cheapness and nutritiousness; in both of which respects great improvements might be made in the food now supplied in prisons. The food is not good, it is insufficient, and yet it costs more than it need. When one considers the ways of Government officials, he passes so rapidly from one astonishment to another that eventually the capability for wonder is satiated, and therefore I am not at all surprised that the English Home Department has paid no attention to the astonishing results achieved by Count Rumford in the provision of good cheap food for a large number of

persons. In the English convict prisons the total cost of victualling for convicts, during the year ending March 31, 1883, was £94,299 12s., and the number of persons fed was 10,564, giving an average of £8 per prisoner per annum, or about 5¼d. per day.

This certainly does not seem a very large sum for a man to have to pay for his "daily bread," even though that bread be of inferior quality, until we have seen what has been effected in the way of cheap food.

The following table, given by Mr. Mattieu Williams in "Knowledge," [1] gives the ingredients and cost of preparing a thick soup, or rather porridge, which Count Rumford supplied to the Bavarian beggars, he having found by experience that a given quantity of solid food was more satisfying to the appetite and more effective in nutrition when made into soup by long boiling with water:

	Weight Avoirdupois. lbs.	ozs.	Cost. £	s.	d.
2 *viertels* of pearl barley	70	9	0	5	9½
2 *viertels* of peas	65	10	0	3	7⅜
8 *viertels* of potatoes	230	4	0	1	9 9/11
Cuttings of fine wheaten bread ...	69	10	0	10	2¼
Salt	19	13	0	1	2½
Vinegar	46	13	0	1	5½
Water	982	15		—	
Fuel, servants, repairs, &c.	—		0	3	5 5/12
Total daily cost of 1,200 dinners ...			£1	7	6⅔

[1] Vol. vi. p. 44.

This amounts to a trifle more than one farthing per dinner—$1\frac{1}{40}$ exactly.

But since that date, 1790, the prices of food and fuel have declined while wages have risen; and if the necessary allowances are made, the price will be increased to about one halfpenny per dinner.

Another soup was made by Count Rumford of a slightly better quality, by doubling the weight of peas and pearl barley and leaving out the potatoes, at a cost of one-third of a penny per dinner; or, making the necessary correction for variation in prices, a little over one halfpenny. The weight of each portion, as served to the beggars, was 19·9 ozs.; the solid matter contained was 6 ozs. of the inferior, or $4\frac{3}{4}$ ozs. of the better soup, and Rumford states that this "is quite sufficient to make a good meal for a strong, healthy person," as "abundantly proved by long experience." A result which is quite in accordance with theory, for chemical analysis shows us that of all food-stuffs barley, peas, and wheat are among the most nutritious.

Surely there is no danger of a prisoner starving, except wilfully, if he could get a good dinner for one halfpenny, and a rather better one for a trifle more. If he wished to indulge himself a little, and had a fancy for animal food, he might be supplied with a dinner such as Count Rumford devised for the mess of the Elector's Grenadiers at Munich. Here is one example which Mr. Mattieu Williams gives out of many: [1]

[1] "Knowledge," vol. vi. p. 82.

June 10, 1795—*Bill of Fare.*

Boiled beef, with soup and bread dumplings.

Details of the Expense.

First for the boiled beef and the soup.

lbs.	loths		Kreutzers.
2	0	beef	16
0	1	sweet herbs	1
0	0¼	pepper	0½
0	6	salt	0½
1	14½	ammunition bread cut fine ...	2⅞
9	20	water	0
Total	13	10	Cost 20⅞

"The Bavarian pound is a little less than 1¼ lbs. avoirdupois, and is divided into 32 loths.

"All these were put into an earthenware pot and boiled for two hours and a quarter, then divided into twelve portions of 26$\frac{7}{12}$ loths each, costing 1¾ kreutzers."

Second for the bread dumplings.

lbs.	loths.		Kreutzers.
1	13	of fine Semel bread	10
1	0	of fine flour	4½
0	6	salt	0½
3	0	water	0
Total	5	19	Cost 15

"This mass was made into dumplings, which were boiled half an hour in clear water. Upon taking them out of the water they were found to weigh 5 lbs. 24 loths, giving 15⅓ loths to each portion, costing 1¼ kreutzers.

"The meat, soup, and dumplings were served all at once, in the same dish, and were all eaten together at dinner. Each member of the mess was also supplied with 10 loths of rye bread, which cost $\frac{5}{16}$ of a kreutzer. Also with 10 loths of the same for breakfast, another piece of same weight in the afternoon, and another for his supper.

"A detailed analysis of this is given, the sum-total of which shows that each man received in avoirdupois weight daily:

lbs.	ozs.	
2	$2\frac{14}{100}$	of solids
1	$2\frac{84}{100}$	of "prepared water"
3	$5\frac{18}{100}$	total solids and fluids.

which cost $5\frac{17}{48}$ kreutzers, or twopence sterling, very nearly."

This cost will be reduced by the substitution of the present prices of materials, but it is exclusive of the cost of fuel, &c., for cooking. Therefore, for about twopence a day prisoners ought to be able to procure a good meat dinner and sufficient breakfast, tea, and supper, and live much better at their own expense than they now do at a cost to the country of 5d. per man per day. Of course, if they chose to practise self-denial and live chiefly upon the halfpenny porridge they would have more money to spend on their liberation. It often happens that the innocent wives and children of convicted men

suffer extreme hardships, and perhaps even run considerable risk of starvation, or are forced to go to the workhouse, to which disreputable place, if they are at all respectable, they naturally dislike going; it should, therefore, be permissible for the convict to direct that a certain proportion of his earnings be paid to his wife.

§ 19. The system of paying prisoners for their labour, which was originated in the Belgian prisons, has now been extended to many continental prisons, and the men are fairly well treated and comfortably lodged; but, for various reasons, crime is reduced by such establishments, probably, as little as by the English prisons. In the first place, the wages paid to the prisoners amount only to sixpence or eightpence for twelve hours' labour, and of this small sum half is retained by the State to set against the prisoner's food, lodging and dress. The effect of such a course is really scarcely, if at all, better than not paying the prisoners anything, for they feel that they are being cheated and robbed, and their hearts are hardened against a society which, as they think, is taking advantage of them. They might say, "According to you, it is wicked to rob; but what is the extraction of twelve hours' work from a man at the price of two? You have robbed us of ten hours' labour. It seems the law of society is that while we have the chance we rob you, and when you get your turn you rob us; very well, wait till our turn comes round again, and see if we don't make hay while the sun shines." Everything is done to confirm the criminal in the idea that he and society are

natural enemies, and that, as in war, all things are fair which the one can compass against the other. Then he is clothed, as in English prisons, in a parti-coloured dress, the effect of which is to degrade him in his own eyes and make him ashamed. Now, everybody must know, from his own experience, that to be made to look like a fool, or in any way publicly humiliated by another person, is about the most difficult thing to forgive, and rouses in the heart all kinds of bitterness and uncharitable feelings; the convict is a man, though many people seem not to think so, he feels that he is being gratuitously humiliated and degraded in the eyes of himself and others; bitterness and hardness of heart is the result, and one more grudge chalked down to the heavy score of society.

Again, wrong is frequently done from want of moral strength and firmness of will, but surely no man's will is likely to be strengthened by his being treated as a slave, being under the absolute control of other men, forced always to perform a given act at a given time, and never allowed to choose for himself between two actions nor exercise his will at all! If a man enters prison with a little independence of character, and with a proper amount of self-respect, he will revolt as a man against the ignominious treatment to which he is subjected in prison; he will then become a marked man; he will be persecuted by the warders, and perhaps by the governor; his spirit will be crushed by dark-cell and bread-and-water diet; and, should he survive, he will issue from prison

an inferior being in all respects: inferior physically, and therefore less capable of earning an honest livelihood by labour; inferior mentally, with moral fibre crushed and broken, and therefore less likely to act honourably and resist temptation. Besides these things, the absence of interest, of events, of new impressions, is injurious both to bodily and mental well-being; and the impossibility of exercising sympathy, generosity, friendship, forbearance, all the good qualities which are called forth among men in society, but absolutely precluded when all intercourse is forbidden, throws away a splendid means of improving the characters of prisoners.

All these and other causes render worthless the continental system; the mere employing prisoners in industrial occupations, and paying them the paltry sum of sixpence or eightpence for twelve hours' labour, will not suffice to effect their reformation; *à fortiori* it will not when at the same time the prisoner is degraded and humiliated, and his heart filled with all kinds of bitter and revengeful feelings against society. It is as though a farmer, before sowing his seeds, converted his field into a huge high road by means of a steam-roller.

§ 20. However, the lengthening of the hours of labour is a step in the right direction; it has been pointed out in the previous chapter that such a change was necessary before the labour of prisoners could be made remunerative; and since it is done abroad, there are clearly no practical difficulties in the way.

§ 21. I would also suggest that daily chapel be

discontinued, for I do not think much impression is produced on the convicts by it; and whatever might be thought desirable in the lowest class of prisons, I should propose that in the superior and intermediate classes the attendance at chapel on Sundays be voluntary. If prison officials of a suitable character were appointed, and if they conversed often and in a judicious manner with the prisoners, and if properly qualified persons, without respect to denomination, were admitted to visit the prisoners constantly, far more moral good would be done than now results from compulsory attention at chapel, which is regarded as part of the prison routine, and in which, owing to the inefficiency or bigotry of chaplains, prisoners frequently hear words which can in no way awaken their moral sense, and may sometimes even produce a bad effect.

§ 22. But, as I have already observed, the fewer regulations the better; certain fundamental principles have been here laid down, and an attempt made to prove them. If their truth has been satisfactorily established, then all that is necessary is that prison governors, peculiarly fitted by nature for dealing with men, should be appointed and given a free hand to carry them into effect. If this were done there can be no doubt that the successes of Colonel Montesinos and M. Obermaier would be repeated, and even surpassed, and society become enriched by thousands of producers.

CHAPTER X.

THE LAST RESOURCE.

"Etenim ut membra quædam amputantur, si et ipsa sanguine et tamquam spiritu carere cæperunt, et nocent reliquis partibus corporis, sic ista in figura hominis feritas et immanitas beluæ a communi tamquam humanitatis corpore segreganda est."—CICERO, "De Officiis," bk. iii. § 32.

§ 1. THERE is, unfortunately, some reason to think that there are in existence men of so vicious and degraded a nature that no reformatory treatment would ever make good citizens of them. Owing to some mental disease, to some malformation of the brain, or to a want of development of the intellectual and moral centres, some men may be literally on a level with the brutes, and combine the ferocity of the tiger with the cunning of the fox. What is to be done with these? Well, if they can safely be kept in custody, and will earn their living in that condition, there is no reason why they should not thus remain during the whole of their lives, seeing that they are no burden upon the State. Commonly, however, it will not be safe thus to keep them, for by hypothesis they are unreformable and untamable, and might use

violence against the prison officials, and even against their fellow-prisoners. The attacks upon warders which take place now, occasionally resulting in murder, are not to be wondered at, for reasons already given; and many a prisoner who is goaded by the present system into homicidal frenzy, might, by proper treatment, be made a useful member of society; but it is to be feared that there are men whose savagery is unredeemable. There are only two ways of dealing with men of this character—one is to imprison them for life in a separate cell, and the other is to kill them.

The former method is cruel to the criminal, prejudicial to his health, dangerous to his reason, and costly to the State; whereas the latter need involve no pain and little expense. When, therefore, a reformatory treatment has had a fair trial and failed, and it is quite obvious that the criminal is a dangerous wild beast, death is the only remedy. Simple murder, under any circumstances, will not justify Society in at once depriving a human being of life; but Society would be guilty of culpable folly in allowing a wild beast to be at large, perhaps propagating its species, and certainly endangering the lives of citizens. To keep a wild beast in a cage is cruel, death is more merciful and more effective.

§ 2. The only difficulty, and it is certainly no slight one, is where to draw the line; but if there be any doubt, it will be better to obey the old adage and "abstain," and there will be cases in which doubt is impossible. One or two instances

may be given. In February, 1886, a correspondent of *The Times* wrote from Copenhagen: "The incendiary who some years ago set fire to the Victoria Docks, and caused a conflagration of the most dangerous nature, and involving damage of several hundred thousands of pounds, has recently been condemned to death for the second time by the Danish courts, and he is not yet twenty-five. The name of the criminal is Jens Nielsen, and he was born in 1862, the illegitimate child of a crippled mother. He passed his youth in Danish workhouses and reformatories, was frequently punished for thefts, and before he was sixteen had twice tried his hand at arson. After having served his term at the penitentiary for these crimes he was sent to America, where he became a sailor. His new trade brought him to London, where he underwent several punishments for minor felonies and committed the principal crime of his life. For this he was not put on trial in England; it was during an investigation against him for other reasons after his return to Denmark that he was convicted of having set fire to the Victoria Docks solely with a view of plundering during the confusion, and the sentence for this and other crimes was sixteen years' penitentiary. He had only been a few months in prison when he made a murderous attack on one of the warders, partly out of spite, and partly because he felt tired of life and wished to die. He was condemned to death, but a royal pardon commuted the penalty to imprisonment for life, under severe guard. This increased his rage and despair, and a few weeks after he

committed another murderous assault, planned with the utmost shrewdness, and coming very near success. The Supreme Court has now, for the second time, condemned him to the supreme penalty of the law, and it is not probable that any commutation will again be advised to the King. Jens Nielsen is in full possession of his mental powers; he is even clever and shrewd, but he is of a bottomless depravity, utterly devoid of moral notions, entirely dominated by his feelings of spite and revenge, and full of sensational vanity. His execution will relieve the world of a real *monstrum horrendum*."

On June 10, 1887, there was reported in the newspapers the trial of a man by the Recorder of Birmingham for theft: "The Recorder, in passing sentence, said he had rarely come across a case like the prisoner's. His career of crime began over eighteen years ago, and since then every experiment it was possible to make had been tried. He had been whipped, sent to a reformatory, twenty times summarily convicted, under police supervision, and finally sent into penal servitude. The practical result was that, during all those years, he had been either kept by the State, or had subsisted on the plunder taken by him from the citizens of this country. He (the Recorder) felt it to be his duty to protect society against a man whom it seemed impossible to wean from crime, and he should therefore order him to be kept in penal servitude for seven years, and then be for three years under police supervision."

The next case was reported in *The Star*, April

4, 1888 : "Jeremiah Murphy, 26, labourer, pleaded Guilty at the Middlesex Sessions to-day with committing wilful damage to a plate-glass window, value £7, and assaulting a police-constable. The prisoner broke the window of a public-house in St. George's, East, and when taken into custody assaulted the constable with a gas-pipe, severely hurting him. Twenty-four convictions were proved, beginning in 1870, when he was eleven years of age. His lordship passed sentence of five years' penal servitude for the damage, and twelve months' imprisonment for the assault."

Reference has been made in a former chapter to Wright, the Hoxton burglar, and to his threat that he would not undergo another sentence of penal servitude. Since that chapter was written the following account of this criminal has appeared in *The Daily News* :[1] "Wright, the Hoxton burglar, seems bent on ending his wretched career on the gallows. A more degraded and desperate villain has rarely tenanted even a prison cell. A glimpse of him in his cell was given three years ago by one of our correspondents, who visited Wormwood Scrubbs Convict Prison on Christmas Day. After attending service in the chapel, the writer made the round of the gaol, and in one of the cells he recognized the figure of this man, who, even in a convict prison, had managed to commit a theft, and, while most of his fellow-prisoners were celebrating the day by attendance at morning service, was confined in a punishment-cell. 'As I peep in upon him through the eye-

[1] April 24, 1888.

hole in the door,' observed the writer, who at that time referred to him merely as a notorious criminal, and without naming him, 'he is pacing his cell with his hands clasped behind him, a brutal scowl on his brow, and he is savagely muttering to himself. The look of the man makes me shudder. His restless pacing to and fro, and his strange muttering irresistibly suggest the idea of a caged wild beast, and I turn away sick and sad.' A very dangerous person he has shown himself. Last week, according to the brief report, which is all that is usually permitted to find its way into print respecting what occurs in convict prisons, he seems to have been put in irons, which is never done except in cases of extreme insubordination. While his shackles were being examined, the report states that he suddenly seized the chief warder's sword and made a slash at him. How the officer came to escape with his life it is difficult to understand, if, as it is stated, he was knocked backwards by the blow. Wright, it is said, made a thrust at another officer, and was then overpowered. . . . He is evidently quite reckless, and one of these days he may catch somebody napping. For his attempt last week thirty lashes were ordered by one of the Directors of Convict Prisons who happened to be on the spot. 'The attempt, and not the deed, confounds us,' will be the sentiment that this desperado will probably entertain in future, and next time he will make sure of the gallows, and so escape the whipping."

Of course it would be very rash to say at once that all these men were irreclaimable, because no serious

attempt was ever made to reclaim them; on the contrary, the treatment they underwent in prison probably made them worse than they were before. In the second of the cases given, especially, long before the man had reached his twentieth conviction it must have been pretty obvious what his real character was, and so soon as that was apparent, however trifling the offence of which he was charged, he should have been sentenced, according to the scheme which has been sketched in a previous chapter, to a minimum term of say two years, commencing in the lowest class; if at the end of the two years he had already reached the superior class, and had been there a sufficiently long time to enable the prison governor to say, with certainty, that he was a reformed man, he would be discharged; but if the most judicious treatment produced no effect upon him, he would remain, all his life, if necessary, in the lowest class, earning his own livelihood in it, and would never be, as this man was for years, a burden upon the State, and so long as he refrained from violence no further steps need be taken with regard to him. In the other three cases there was a strong tendency to murderous violence; whether such men as Nielsen and Wright could be reformed by any means remains to be proved by experiment; but assuming that, after every means had been tried, during three or four years, the men still showed themselves as dangerous as these two men have done, there could be no hesitation in saying that death is the only thing for them. Not as a punishment, nor in a spirit of revenge, nor as a

deterrent to others; but just as society, not primarily for the good of the criminal, but in its own interest, ought to substitute reformatory for deterrent methods, so, when reformatory methods have failed, society, in self-defence, has no other course to adopt but that of putting a dangerous criminal to death.

§ 3. The objections to the putting persons to death by Government have been stated by Henry Romilly, in his book upon "The Punishment of Death," to be: "1. That an example is given of indifference to human life which, if it became general, would bring men down to the level of wild beasts; 2. That Government thereby usurps the function of that Being who has bestowed life upon us as a free gift; 3. That imprisonment for life has a greater deterrent effect." Now, intelligent men have generally discarded the doctrine that persons after their death have to give account of the actions they have committed during their lives, nor do they believe that life has been specially given to man in a different sense from that in which it has been given to animals, which may be killed without usurping the functions of any supernatural being; and it has been proved in former pages that no punishments are deterrent to any considerable extent. Objections two and three are thus summarily disposed of, and the first only remains.

Now, it cannot be said that the slaughter of a dangerous beast gives an example of indifference to human life, and if Government, as the representative of society, says, "Under no circumstances, and in retaliation for no act, shall any person be

put to death while there is the smallest hope that he can be made a useful member of society; not even murder shall be held to entitle us to take the agent's life; we will do our utmost to calm his passions and to elevate his thoughts, placing him in a position in which he can do the minimum of injury to society at large, and in which he may do useful work for his own and the common advantage, even holding out to him the hope of earning his liberation; but if, after all our endeavours, a creature in human form proves himself in reality a savage and dangerous animal, then our regard for the lives of human beings will compel us to put that dangerous creature to death;" surely hereby is manifested no indifference for human life, but quite the reverse.

§ 4. There have, from time to time, been debates in the House of Commons as to the advisability of discontinuing what is called the death "penalty;" and the argument has usually turned chiefly upon the question of the relative deterrency of death and of imprisonment for life—a line of argument which must now, of course, be abandoned, equally with the idea of death as a "punishment," or "penalty." But on, at least, one occasion, Mr. Pease urged as an objection to death the revolting scenes which sometimes take place at executions, and he gave a long and gruesome list of cases in which accidents or delays have occurred, causing to the condemned man either physical or mental anguish.

This, though it is no argument at all against putting men to death, is a strong argument against

the present barbarous system of strangling them and wringing their necks. In a philosophical and æsthetic age it is really time to cast about for some method which shall be at the same time less repulsive and more certain. Seeing that death is only to be inflicted when no other course remains, and that it is not to be meted out as a punishment, the State is guilty of a criminal act when it does not limit itself to the mere painless deprivation of life, but wantonly subjects the doomed man to torture in his last moments. In any case, even though death on the scaffold be instantaneous, the preliminaries, the pinioning, the walking from the cell to the place of death, the sight of the scaffold, the slow painful moments which must elapse before the bolt is drawn, all these things must, and it is known as a fact that they do, cause the condemned man extreme mental agony, though, naturally, some bear it better than others. Of all the continental countries Russia, which we are wont to look upon as semi-barbarous, is the only companion of England in resorting to the halter. America, an English-speaking nation, has not yet discarded it, but there are signs that public opinion there is tending in that direction; for the Medico-Legal Society of New York, having recently appointed a committee to report on the best method of executing criminals, the following conclusions were arrived at: Hanging should be abolished, as cruel and contrary to the public sense of civilization; as a substitute for the present death penalty three methods are recommended—(*a*) death by the electric current; (*b*)

death by hypodermatic or other injection of poison; (*c*) death by carbonic acid gas injected into a small room in each gaol; of these three preference is given to the first,[1] a decision which I, for various reasons, endorse; but to discuss the respective merits of the three methods would not properly come within the scope of the present work. That some change ought to be made cannot be disputed.

§ 5. I have now endeavoured to show how law-breakers of every age and every shade may be dealt with most profitably to the community. Examining first the causes of crime, I showed that habitual criminals nearly always commenced their career early, and inferred that, since prevention is better than cure, it was advisable to use our utmost endeavours to get hold of juveniles before the seeds of evil had had time to take root, and even before those seeds were sown if possible, and plant instead, in their minds, habits of industry and uprightness; if we could succeed in this there is great hope that the criminal classes would be broken up and their supply cut off at the source. Then I endeavoured to devise a scheme by which all habitual criminals might be drawn into a great net spread for them by society, and kept in a position in which little injury could be done by them, and in which they would produce for the advantage of the community, instead of being a prey upon it as heretofore, and I pointed out a

[1] Since the above words were written the New York Legislature has given effect to the recommendations of this committee.

means by which such men might be reformed and earn their own freedom through good conduct, or, should they never become fitted for social life, remain all their lives in no miserable or unhealthy condition, but out of harm's way. Finally, I argued that if it were evident that a man were quite unfit to live, life would rightly be withdrawn from him. Society deals with criminals in self-defence; if they can be made useful citizens the best result of all is attained; if they will not work but prefer to starve that is their look-out; if they endanger the lives of members of society, then death is the last resource.

To keep men in a separate cell at the public expense has been shown to be futile and a waste of public money; the method proposed in these pages, some portions of which have already been put into practice with good results, seems to me not only consistent and philosophical, but inexpensive and, if involving difficulties, with determination, practical.

The present method is a failure. At least, it is wise to try some other plan; should that also fail, ingenuity must again be evoked, but at least let us not sit contented and, with a bland smile, watch criminals being manufactured by society, in the very establishments which are designed to eradicate them.

APPENDIX.

SOME FACTS AND EXPRESSIONS OF OPINION WITH REGARD TO THE EFFICIENCY OF IMPRISONMENT AS A DETERRENT FROM CRIME.

No. 1.

Extract from a report in *The Times* of December 2, 1885, of a speech delivered by Lord Coleridge in a Mission Room, before a company of discharged prisoners:

"There were few things more frequently borne in upon a judge's mind than the little good he could do the criminal by the sentence he imposed. These sentences often did nothing but unmixed harm, though he was sure that throughout the country the greatest pains had been taken to make our prisons as useful as possible in the way of being reformatories. But, *as a matter of fact, they are not so.*"

No. 2.

Extracts from the Report of the Select Committee on Prison Discipline:

"3422. You are aware of the solitary system as it has been acted upon in America?

"Mr. *W. Merry.*—Yes, in Walnut Street Prison the men were shut up in living graves for ten months. . . . In

the course of the ten months some died, one went mad, and the thing was given up. But a remarkable thing in connection with the experiment is this—that most terrible as that punishment was, fourteen of those men upon whom such an awful experiment had been tried were recommitted."

Rev. J. Field, Chaplain of Reading Gaol, said, in answer to question 3786: "I do not think punishments generally deter to the extent supposed."

No. 3.

Extracts from the Report of the Penal Servitude Acts Commission, 1879.

Major A. Griffiths, Inspector of Prisons, in reply to question 3195, said: "I do not think punishment is effective at all in the way of deterring from crime."

"3197. Then you think that the punishment has no effect upon those who have not yet offended in deterring them from committing crime?—I do not think that it has a very appreciable effect."

Captain R. A. Leggett, Governor of Salford Gaol, in reply to question 6163, said: "I cannot think that the imprisonment, as enforced now, under the strictest rules, exercises any deterrent effect."

And this opinion is spreading more and more among those who are brought into frequent contact with criminals and thoughtfully observe their ways and character.

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